

Education
Choice & Innovation

Committee Meeting
March 7, 2006

Meeting Packet



The Florida House of Representatives

Education Council

Choice & Innovation Committee

Allan G. Bense
Speaker

John Stargel
Chair

MEETING AGENDA

March 7, 2006

214 Capitol, 2:00-4:00 PM

- I. Call to Order**
- II. Chairman's Remarks**
- III. Workshop on the following:**
 - Charter Schools and Multiple Authorizers**
- IV. Consideration of the following bills:**
 - HB 135 by Greenstein -- Charter Schools**
 - PCB CI 06-03 by Stargel -- Charter Schools**
- V. Closing Comments**
- VI. Adjournment**

Center for Education Reform

1001 Connecticut Avenue, NW
Suite 204 • Washington, DC 20036

Tel: 202-822-9000
Fax: 202-822-5077

JEANNE ALLEN

"Jeanne, you are an American Hero. Thank you for the work you are doing."

Rod Paige
Former Secretary of Education



"The work that the Center for Education Reform does is so important to our children's futures; we are indeed fortunate that leaders, such as Jeanne Allen, chose to start the Center. Many of our children (mine included) have and continue to benefit as a result of CER's dedication to improving education. Please accept my heartfelt thanks."

Onnie Shekerjian
Arizona State Board for
Charter Schools



"Under your leadership, CER has been instrumental in monumental educational change focused on student learning...Time after time I have relied on CER's information to draft effective legislation and encouragement to see it passed and implemented..."

Teresa Lubbers
State Senate, Indiana

Jeanne Allen is the founder and president of the Center for Education Reform (CER), the nation's leading voice for education reform. Established in 1993 and located in Washington, D.C., CER creates opportunities for better education in America's schools by advocating education reforms that foster high standards, accountability and freedom, school choice programs for children most in need, common sense teacher initiatives and proven instructional programs.

As an author, activist, parent-trainer, and policy advisor, Ms. Allen is widely regarded as one of the country's leading education experts. Her experience from Capitol Hill, the U.S. Department of Education, prominent policy foundations, and graduate studies inform her perspective and leadership role nationally in education reform.

Writer for national newspapers, featured in *The Wall Street Journal*, *The Washington Post*, *USA Today*, *The Dallas Morning News*, *Newsday*, she is also referenced in hundreds of citations and author of opinion editorials in local and community publications. She champions educational excellence on MSNBC, CNN, *Good Morning America*, NPR, and Fox News. Leading family magazines such as *Good Housekeeping*, *Parents*, *Reader's Digest*, and *Family Circle* rely on her insight and depth of knowledge. Ms. Allen authored the Preface to *Leveling the Playing Field*, from the Atlantic Legal Foundation scheduled for release in 2005 and co-authored *The School Reform Handbook: How to Improve Your Schools* (1995).

Ms. Allen serves as an advisor to numerous national and community based organizations including the American Association for Liberal Education and the National Council of Education Providers. She sits on the Boards of the Charter School Development Corporation, I Pay 5 (a parent advocacy group), and the New York Charter School Resource Center.

Ms. Allen is a mother of four school-aged children, Johnny, Teddy, Anthony, and Mary Monica.



JOSEPHINE C. BAKER – EXECUTIVE DIRECTOR

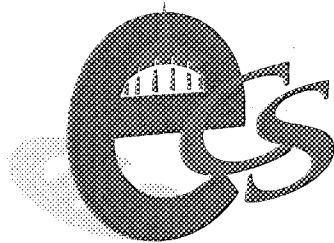
Josephine Baker served as the first chairperson of the District of Columbia Public Charter School Board from February 1997 until July 2002, providing leadership to the Board's operation. In the press release issued by the Board at the time of her appointment as ED stated "The Board approached Mrs. Baker after determining, as it considered the attributes of applicants and the position's requirements, that the ideal candidate to assist the Board in its work was present among them. ...her dedication to the Board over the last five years has been exemplary."

In her position as Executive Director, there is primary focus on implementation of the law. The School Reform Act of 1995 delineates the responsibilities of the Board and it underlies all the actions taken by the Board. She keeps the Board abreast of research in charter schools and national developments and provides a link between community and government organizations interfacing with the Mayor, City Council, State Education Office, DCPS and other government agencies. Her attendance and participation at meetings, forums, hearings and policy sessions afford the Board with both information and opportunities to be a part of the decision making process.

She maintains a high level of communication with the staff and believes that the office is well served by having a substantive relationship with staff.

Ms. Baker serves as Chair of the National Association of Charter School Authorizers, and was an active member of a task force of the Education Commission of the States. In 2003, she served on a panel with Chicago Mayor, Richard M. Daley, at the CEO's for Cities Fall 2003 National Meeting in Chicago. Ms. Baker has also traveled to Minnesota on several occasions to provide insight to the Minnesota State Legislature, and other charter stakeholders on the functions and value of an independent charter authorizer.

Ms. Baker has been a part of public education for many years, having taught in DCPS for 25 years. She attended DC public schools as did her three children. Hers is a dedication for she is passionate about improving education for the children of this city, and where possible, to have an impact beyond the city.



ECS Issue Brief

A State Policymaker's Guide to Alternative Authorizers of Charter Schools

700 Broadway, Suite 1200 • Denver, CO 80203-3460 • 303.299.3600 • Fax: 303.296.8332 • www.ecs.org

**Education Commission
of the States**

By Bryan Hassel, Todd Ziebarth and Lucy Steiner
September 2005

INTRODUCTION

One of the most innovative developments in public education in recent years is charter schools. While some characteristics of charter schools vary from school to school – such as school missions and curriculum and instructional approaches – there are certain things common to all charters. They are semi-autonomous public schools, founded by educators, parents, community groups or private organizations that operate under a written contract with a state, district or other entity. This contract, or charter, details how the school will be organized and managed, what students will be taught and expected to achieve and how success will be measured. Many charter schools enjoy freedom from rules and regulations affecting other public schools, as long as they continue to meet the terms of their charters. They can be closed for failing to satisfy these terms.

Since their inception, charter schools have been controversial. Because they often operate outside the direct control of school boards, superintendents and teachers unions, these entities usually view charter schools skeptically. The funding of charter schools also has provoked discomfort among these entities because they feel money is unfairly lost to charter schools when a student transfers from a non-charter public school to a charter public school. Lastly, although research about the academic performance of charter schools is emerging, a consensus on what the results mean remains elusive. Without that consensus, the debate about the effectiveness of charter schools is contentious.

Notwithstanding these controversies, 40 states and the District of Columbia have enacted charter school laws. As of the 2004-05 school year, about 3,300 charter schools were open across the country, representing about 4% of all public schools in the nation. These charter schools served more than 900,000 students, or 2% of all students attending the nation's public schools. About 450 charter schools opened their doors for the first time during the 2004-05 school year – one of the highest number of school openings during the almost 15 years of the movement.

In this Report:

Types of Alternative Authorizers	3
Independent Special-Purpose Charter Boards	3
Universities and Colleges	5
State Boards, Commissioners and Departments of Education	7
Mayors	8
City Councils	9
Nonprofit Organizations	10
Regional Educational Entities	12
Creating a State Authorizing System	14
Mix of Charter Authorizers	
Support Systems for High-Quality Authorizing	15
Appendix A: Who Can Authorize Charter Schools in Each State?	16
Endnotes	23

Acknowledgments

Bryan Hassel is the president of Public Impact, a North Carolina-based consulting firm. Todd Ziebarth is a policy analyst at Augenblick, Palaich, and Associates, a Colorado-based consulting firm. Lucy Steiner is a senior consultant with Public Impact. Amy Way and Julie Kowal at Public Impact also conducted research for this paper. The U.S. Department of Education's Public Charter Schools Program provided funding for this paper.

One of the key components of the state policy environment for charter schools is which entities may serve as charter school authorizers – that is, those entities that approve and oversee charter schools. Although the important role of charter school authorizers was sometimes overlooked when states first passed charter school laws, there is a growing recognition that effective charter school authorizing is critical to the success of charter schools. By ensuring schools have both the autonomy to which they are entitled and the public accountability for which they are responsible, charter school authorizers fulfill important responsibilities.¹

The type of entities that may authorize charter schools varies from state to state. During the 2004-05 school year, there were over 800 charter school authorizers across the country. The vast majority – over 700 – were local school boards. The rest were non-local school board authorizers, i.e., “alternative authorizers.” Of the over 100 alternative authorizers, 44 were regional educational entities; 37 were universities and colleges; 22 were state boards, commissioners and departments of education; 17 were nonprofit organizations; five were independent special-purpose charter boards; and two were mayors and city councils. Appendix A contains information about which entities may authorize charter schools in each state.

Why are states allowing entities other than local school boards to authorize charter schools?

- **Create New Public Schools on a Large Scale.** Some states are taking a “two-bet” strategy to improving public schools. The first bet is to improve existing schools, while the second bet is to create new schools. The reasoning: we won’t get the schools we need by just changing the schools we have – we also have to create new schools on a large scale.² These states feel that alternative authorizers are an integral component of their new schools bet. The creation of alternative authorizers opens up a fresh space in public education in which good educational practices may develop without the constraints of existing routines, cultures and practices – in everything from instruction and scheduling to accountability and oversight.
- **Charter Authorizing is a Tough Fit with Existing District Practices.** Though many school districts – including some of the nation’s largest – have become active charter authorizers, most districts are all consumed in their efforts to improve their existing schools. What is more, they often take a more top-down approach in these efforts. Asking them to approve and monitor largely autonomous schools based on performance piles another helping of reform on their plates and cuts against the grain of their existing approach. It is a tough fit for many districts. Plus, the task of working with charters is often given to staff that already have more than enough to do. Given these circumstances, chartering is often given short shrift by districts, even those not openly hostile to charters.
- **Give Charter Applicants a Choice of Authorizers.** The existence of both local school board authorizers and alternative authorizers give potential charter operators a choice of entities to approach with their charter application. Such choice is particularly important for potential operators that are located in districts that are skeptical, if not hostile, to charter schools. Not only do alternative authorizers provide these potential operators with a viable route to possible sponsorship, but their presence may also force skeptical and hostile local school boards to implement the provisions in a state’s charter school law in more of a practical and less of an ideological manner.
- **Allow for Experimentation with New Concept of Charter Authorizing.** The authorization of public charter schools based on performance is a relatively new concept. While much has been learned during the first decade and a half of the charter school movement, charter school authorizers are still refining the best ways to implement their responsibilities. By creating alternative authorizers, states allow different types of entities to experiment with a variety of approaches to approving and monitoring schools based on performance.
- **Provide Incentives for Existing Districts to Improve.** The creation of alternative authorizers that overlap in geography with a district, a region or an entire state puts into motion a competitive dynamic that provides incentives for existing districts to improve. The presence of alternative authorizers creates competition for students and dollars between them and existing districts, in the hopes of motivating all of them to continuously improve their schools’ performance to attract and retain students and dollars.

This paper’s purpose is to help state policymakers think through what kind of alternative authorizing structures may make sense for their states. The paper presents the advantages, disadvantages and policy considerations for each of the seven types of alternative authorizers. In addition, it discusses the critical design issues facing states interested in creating alternative authorizers.

TYPES OF ALTERNATIVE AUTHORIZERS

This section explores the advantages, disadvantages and policy considerations for each of the seven types of alternative authorizers: independent special-purpose boards; universities and colleges; state boards, commissioners and departments of education; mayors; city councils; nonprofit organizations; and regional educational entities. The analysis is done within a framework of cross-cutting factors that should be considered for each type of authorizer.

Independent Special-Purpose Charter Boards

Five jurisdictions allow independent special-purpose charter boards to authorize charter schools. In four of these jurisdictions – Arizona, the District of Columbia, Idaho and Utah – charter applicants in any part of the jurisdiction may apply to these boards for approval. In one – Colorado – only charter applicants in certain districts may apply to the board for approval.

Potential Advantages

- **Core Mission Is Charter Authorizing.** Given the full plates and more centralized focuses in many districts, charter authorizing is often a tough task that is given inadequate attention. Even many alternative authorizers take on the responsibility of authorizing charter schools in addition to their core missions. One of the advantages of an independent special-purpose charter board is that its core mission is the authorization of charter schools. That, and only that, is what it does. When Colorado created its independent charter board, one of its stated purposes was to enhance charter school authorizing in the state. According to the law, it is “the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.”³
- **Ability To Build Systems from Scratch.** Because it is a new entity, a special-purpose charter board can build all of the key authorizing systems – from an application process to an oversight and accountability system – from the ground up. It does not have to shoe-horn charter schools into an existing set of processes and systems. While this design work poses a capacity challenge as described below, it also allows this kind of authorizer to fashion a system that is well designed from the beginning.
- **Fresh Perspective on Student Needs.** Because independent charter boards are new entities that operate largely outside of the traditional public education bureaucracy, they can bring a fresh perspective to the provision of public schooling in a state or community. They also have a clean slate on which they can work with communities in identifying which student needs are currently not being adequately met. Once it identifies those needs, it can create an application process that gives priority to proposals that propose to fulfill them.
- **Expertise of Board Members.** While the field of charter authorizing is new, it has become apparent that expertise in certain areas – e.g., finance, facilities and curriculum – among charter authorizer board members increases the chances for successful authorizing. By creating independent charter boards, a state can require that these areas of expertise be represented on the board.

Potential Disadvantages

- **No Prior Presence in Community.** Independent charter boards are new entities. For some period of time, it is likely the broader community in a state or district will be unfamiliar with the new board’s workings. This lack of familiarity may be problematic for the board as it seeks to authorize charter schools in a community that is uncertain of the board’s role in it.
- **Limited Capacity at the Outset.** No matter the type of charter authorizer, they need sufficient resources – e.g., staff and funds – to effectively carry out their functions. While a challenge in any context, the provision of sufficient resources to independent charter boards is particularly acute when they are established. These entities will be starting from scratch and will probably not have a larger institution – such as a university – to provide them with initial staff and funding.
- **Accountability.** Elected local school board members are directly accountable to the voters on a periodic basis – even if the turnout for many of these elections is relatively low. In the five jurisdictions with independent charter boards, the board members are appointed, often by elected officials. Such appointment processes have their advantages, but they also probably lessen citizens’ ability to control public schools in their community through their votes for local school board members.

Policy Considerations

States that are interested in creating independent charter boards should consider several policy issues. The first one is where should the new entity be able to authorize charter schools: Across an entire state? In a particular district? Across a certain region?

The second issue is what types of expertise should be represented on the board. Options include expertise in education, finance, management, community needs and student needs. To ensure there is a link between the efforts to create new schools and those to improve existing schools, states can require a member of an existing school board – either state or local – to serve on the new independent charter board. Also, whoever appoints the new board can increase its credibility by appointing members who are known and respected in the communities the board will be serving.

A related issue is who should appoint the board, which will partially depend on where the board is allowed to authorize charter schools. In the District of Columbia, the mayor, in consultation with the city council, appoints the seven members of the DC Public Charter School Board, from a list of 15 recommendations by the U.S. secretary of education. Seven of the nine members of the Colorado Charter School Institute Board are appointed by the governor, with the remaining two appointed by the state commissioner of education.

Table 1
Independent Special-Purpose Charter Board Composition

State	Board Composition
Arizona	The Arizona State Board for Charter Schools is comprised of 14 members – the superintendent of public instruction or designee, six members of the general public (one of whom shall reside on an Indian reservation), two members of the business community, one charter school operator, one charter school teacher and three nonvoting advisory members of the legislature.
Colorado	The Colorado Charter School Institute Board is comprised of nine members – seven appointed by the governor and two appointed by the state commissioner of education. No more than five members of the board may be of the same political party. The law provides areas of experience, such as administrative, financial and teaching, that board members should have.
District of Columbia	The DC Public Charter School Board is comprised of seven members appointed by the mayor, from a list of 15 recommendations by the U.S. secretary of education. The law provides areas of experience – student learning, quality teaching and budgeting – that board members should have.
Idaho	The Idaho Charter School Commission is comprised of seven members appointed by the governor – three must be current or former members of boards of directors of charter schools; three must be current or former local school board members; and one must be from the public at-large.
Utah	The Utah State Charter School Board is comprised of seven members appointed by the governor – two must have expertise in finance or small business management; three must be appointed from a slate of at least six candidates nominated by Utah's charter schools; and two must be appointed from a slate of at least four candidates nominated by the Utah State Board of Education.

Universities and Colleges

Nine states allow universities and colleges to authorize charter schools: Indiana, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio and Wisconsin. In most of these states, certain universities and colleges can authorize charter schools throughout the state. Florida, Missouri and Wisconsin, though, have granted such authority in more limited circumstances.

Potential Advantages

- **Strong Connection to Mission.** Some universities and colleges see part of their mission as the improvement of the quality of life in their surrounding communities as well as the entire state. Cutting-edge universities and colleges can authorize charter schools to help in the achievement of this mission in novel ways. For example, they can authorize charter schools for students from families with little or no postsecondary experience. These schools can allow students to take college courses and receive high school and college credit for them. These schools also can ease transitions from high school to college and provide support to students once they are in college.
- **Build on Previous Experience with K-12.** Many universities and colleges have previous experience with K-12 education – in preparing teachers and administrators for K-12 schools and in providing professional development to K-12 teachers and administrators. An innovative postsecondary institution can combine the authorizing of charter schools with their teacher and administrator preparation and professional development efforts. These schools can serve as a place where prospective teachers can conduct their student teaching, prospective administrators can complete their internships, and practicing teachers and administrators can complete professional development residencies.
- **Visible and Credible Institutions.** Universities and colleges are institutions that are well known and highly regarded in their states. The schools they authorize may be viewed as more legitimate than schools authorized by lesser known entities. These schools also may build on the institution's deep ties in building support for their efforts.

Potential Disadvantages

- **Already Full Plates.** There is a lot of activity at universities and colleges. The authorization of public charter schools is a big step for already busy institutions. If universities and colleges want to head down this road, they need to take what it entails seriously and put into place certain things to increase the probabilities of success – adequate staff, finances and services.
- **Close Connections with Existing K-12 Institutions.** Many universities – particularly through their schools of education – are closely connected to the K-12 system's existing institutions (i.e., school boards, superintendents, teachers unions). These schools may be less than enthusiastic about authorizing charter schools independent of these institutions.
- **Political Repercussions from Districts.** Due to their authorizing of charter schools, some universities have reported they have felt political backlash from districts. For example, these districts have told the universities that their student teachers are no longer welcome in the district's classrooms. The bottom line is a university's authorizing efforts may ruffle the feathers of districts that are opposed to charter schools.

Policy Considerations

The first policy consideration for states that want to allow universities and colleges to authorize charter schools is: What is the capacity of universities and colleges in the state to serve as charter school authorizers? Are there some institutions that seem like logical choices to serve as authorizers because of their missions – such as an urban institution with a strong focus on public school reform – or their leaders – for instance, some university presidents may have track records of successfully engaging in innovative endeavors, particularly in K-12.

Another set of issues focuses on eligibility. Which universities and colleges should be allowed to serve as charter school authorizers? Should the state allow all public institutions to become authorizers or just certain ones, such as statewide institutions? Should the state also allow private institutions to serve as authorizers? Should eligible institutions be required to apply to the state for permission to serve as an authorizer? Should states reserve the right to revoke an institution's eligibility if it proves to be an ineffective authorizer?

The final issue is where universities and colleges should be able to authorize charter schools. Should they be limited in where they can charter? Or should they be allowed to charter schools throughout a state? Should it depend on the type of authorizer – e.g., a statewide institution should be able to authorize throughout a state but a regional community college should only be able to charter in that region?

Table 2
Types of University and College Authorizers

State	Public Four-Year	Community College	Private
Florida	A state university may grant a charter to a lab school.	A community college district board of trustees may grant a charter to a charter technical career center.	
Indiana	Public universities for applicants outside of Marion county.		
Michigan	State public universities.	Community colleges.	
Minnesota	The University of Minnesota or a state university governed by the Board of Trustees of the Minnesota State Colleges and Universities.	Community colleges and technical colleges governed by the Board of Trustees of the Minnesota State Colleges and Universities.	Private colleges that grant two- or four-year degrees.
Missouri	Public four-year college or university in or near the Kansas City or St. Louis school districts.	Community college in or near the Kansas City or St. Louis school districts.	
New York	State University of New York may approve start-ups.		
North Carolina	Any campus in the University of North Carolina system.		
Ohio	State universities approved by the state department of education may approve start-ups.		
Wisconsin	The University of Wisconsin-Milwaukee may authorize charters in Milwaukee and the University of Wisconsin-Parkside may authorize one charter school in Racine.	The Milwaukee Area Technical College may approve charters in Milwaukee.	

State Boards, Commissioners and Departments of Education

In 12 states, the state board of education, the state commissioner of education or the state department of education may directly authorize schools throughout the state. In several other states, one of these state entities may either directly authorize schools in limited circumstances or approve a charter application after a local school board has approved it. The entities that have undertaken the most authorizing activity are the Arizona State Board of Education, Massachusetts Board of Education, New Jersey Commissioner of Education, North Carolina Board of Education and Texas Board of Education.

Potential Advantages

- **Opportunity to Interact in Innovative Ways with Public Schools.** If a state allows its board, commissioner or department to authorize charter schools, it provides a great opportunity for the state to interact in innovative ways with its public schools. The state can use this opportunity as a laboratory for developing new policies and practices for all public schools based on the innovations that arise in its workings with its charter schools, particularly regarding how public schools are held accountable and overseen. If a state is to take full advantage of this opportunity, it should hire staff with certain skills – perhaps more along the lines of an entrepreneur than a bureaucrat. Some states, such as Minnesota, are creating new offices of choice or charter schools, as in Massachusetts, to undertake these activities.
- **Statewide Bully Pulpit.** By allowing existing state entities to authorize charter schools, states are vesting this authority in individuals with a statewide reach. In particular, state commissioners of education have the ability to use the bully pulpit to support and promote new but promising ideas such as charter schools. They also may use it to persuade district and school leaders as well as teachers, parents and students why they should support charter schools as one piece of the school reform puzzle.
- **State Backing Provides Credibility.** When a state allows an already existing state entity to become an alternative authorizer, it gives the new schools that are authorized the imprimatur of the state. In states with new or small charter movements, the state's sanction may be particularly important. The backing of the state provides a certain amount of credibility to the charters that it authorizes. This credibility may be most helpful to charter operators as they navigate the financial and facility markets in search of support for their fledgling school.
- **Existing State Capacity.** State agencies may have existing capacity that would help them oversee charter schools or provide them with valuable services such as professional development. As discussed below, some state systems may be too compliance-oriented to work well with charter schools. Other state systems, though, may prove useful to the state in its role as authorizer as well as to the schools that it authorizes.
- **State Needs Assessment.** A state entity will bring a statewide perspective to approving and overseeing charter schools. In partnership with a broad array of stakeholders both inside and outside of the traditional public education system, a state entity can identify the greatest needs in the state and solicit proposals for charter schools that fulfill these needs. It also can encourage collaborative efforts among districts and between districts and outside organizations to meet the identified needs.

Potential Disadvantages

- **Traditional Focus on Compliance.** Requiring an existing state entity to authorize charter schools may be problematic if the entity is primarily focused on compliance and not performance. In some agencies, the compliance-focused routines, cultures and practices that predominate may not match what is required for the entity to approve and oversee largely autonomous public schools based on performance.
- **Overloaded Agencies.** With the increasing demands from above and below in a tight fiscal environment, many state agencies already feel overburdened. They feel they don't have the ability to hire new – perhaps more entrepreneurial – staff to lead their charter authorizing work. Instead, they simply add these tasks onto the already full plates of current staff. A state's charter authorizing responsibilities become one of several for an already overworked staff member.
- **Stability.** Some state board members or commissioners are elected. Others are appointed by elected officials like governors. The election of new members or commissioners – or governors that appoint them – that aren't as supportive of charter schools as their predecessors may create a less hospitable environment for state-authorized charters.

- **Relationships with Local School Boards and Superintendents.** One reason a charter applicant may approach a state authorizer is that the local school board and superintendent are hostile to charter schools. If the state then authorizes that applicant, it may create resentment between the local school board and superintendent toward the approved school and the state. Additionally, state agencies may regard local school boards and superintendents as their primary “customers” or constituents, further complicating the politics of state authorizing of charter schools.

Policy Considerations

When a state allows an existing state entity to authorize charter schools, there is obviously political will between the governor and the legislature to make it happen. If the governor supports and appoints the state entity now tasked with authorizing and overseeing charter schools, it is likely the state entity will support the policy as well. But, in those situations where the governor doesn't appoint the state entity, is there will in the entity to effectively carry out its responsibilities?

A related consideration concerns the capacity of the existing entity. Should the state entity create a special office that will lead its charter authorizing activities? Are there individuals in leadership and administrative positions who have the skills to take on the largely new task of interacting with public schools from more of a performance and less of a compliance perspective? If not, does the state have the resources to identify and hire individuals to come on board to implant these tasks?

Mayors

One state, Indiana, has designated the mayor of Indianapolis as a charter authorizer within city boundaries. In 1999, mayoral candidate Bart Peterson made charter schools a central component of his campaign. After his election, the Legislature enacted the state's charter school law, which gave the mayor the power to authorize charter schools, with the ratification of the city-county council. In several other states, including California, Michigan and Missouri, legislatures have considered bills to designate mayors as authorizers, but as of fall 2005 only Indiana has enacted such a provision.

Potential Advantages

- **Direct Accountability to the Public.** As an official elected by the people of the city, a mayor is directly accountable to citizens for the performance of city government and the health of the city. Since a city's health is so inextricably tied to the quality of its public schools, such direct accountability creates a strong incentive for a mayor to make good decisions as a charter authorizer. Issuing charters to low-quality schools can undermine the mayor's support among the public and community leaders.
- **High Visibility.** Mayors receive a lot of attention from the media and the public. This kind of attention lends an unusually high degree of visibility to a mayor's charter school program and can thus create a high level of transparency for the charter initiative. When a mayor releases an annual report on schools' performance, for example, the media is very likely to cover it.
- **Potential for Advocacy and Support.** As a strong and vocal advocate for charter schools, a mayor can give the entire movement credibility – which in turn helps the schools attract students, funding and community support. The mayor also can lend his support to charter schools as they experience inevitable setbacks and as they navigate complex regulatory challenges. In Indiana, for example, Mayor Peterson of Indianapolis has played a critical role in advocating for improvements to the state's charter school law in such areas as school funding.
- **Access to Resources.** City governments have numerous resources that can be very valuable to schools. In Indianapolis, the mayor's charter school office has created a facilities financing program within the city's bond bank, encouraged the parks department and the public library system to collaborate with the schools and used public access television to provide information about the schools to the public. Other possibilities for mobilizing the city's resources could include: making surplus city buildings available to charter schools, co-location of city services with charter schools, linking charter schools with youth development programs and providing low-cost housing for charter school teachers. Beyond city government itself, mayors are also well-positioned to encourage effective community organizations to apply to open a school, identify talented people who are interested in serving on charter school boards, and raise private funds to support the charter initiative.
- **Local Knowledge.** Because they know the city's neighborhoods, mayors are in a good position to know which communities are most in need of stronger schooling options. When presented with a charter application, mayors are likely to have knowledge – or be able to acquire knowledge – about the founding group and their track record in other endeavors.

Potential Disadvantages

- **Lack of Education Expertise and Capacity.** Few mayors have expertise in education or in overseeing schools. Therefore, all of the systems and initiatives involved in authorization need to be created from scratch. While a mayor's office can draw on the practices of other authorizers, the design and implementation challenge is still significant.
- **Multitude of Responsibilities.** Mayors are responsible for all aspects of city government. As a result, a charter initiative will be just one of dozens of issues demanding the attention of a mayor.
- **Lack of Stability.** Another inherent dilemma with having mayors act as charter school authorizers is their political vulnerability. When a new mayor takes office, what happens to the charter school initiative? While it is difficult to imagine that it would be easy for a non-supportive mayor to close a popular, well-performing school, it is possible to imagine such a mayor making the climate much less welcoming by imposing burdensome regulations on existing schools or a moratorium on new schools. While turnovers in leadership are common for any authorizer, it could be particularly debilitating in the case of a mayor's office where many staff members are also hired only for the term of that particular mayor.

Policy Considerations

For a state that is contemplating mayors as potential charter authorizers, several important policy considerations emerge. First, what is the executive capacity of a state's mayors? In some states, mayors serve as chief executive officers of their cities, overseeing a large staff that runs multiple city agencies. In other places, a city manager plays the chief executive officer role, with the mayor serving as chair of the city council and the ceremonial leader of the city. While mayors in the latter case could serve as charter school authorizers, they would face added challenges related to building administrative capacity to authorize.

Second, should mayors across the state be authorizers or only those in designated cities? A state could limit mayoral authorizing to one or more of the state's largest cities, as Indiana did by naming only the mayor of Indianapolis as an authorizer. Alternately, a state could tie mayoral authorizing to academic performance in some way such as empowering mayors as authorizers only in districts whose academic performance falls below some threshold. Finally, a state could establish a process through which mayors could apply to become authorizers and receive the authority if they meet a set of state-established criteria.

Third, state policymakers must consider the capacity of its actual mayors. As with any field of human endeavor, there is a range of quality across the ranks of mayors. A state that allows mayors to authorize charter schools would want to have some confidence that, at least for the moment, the actual mayors assuming the authority have the capability to be effective authorizers.

City Councils

Wisconsin has empowered several entities within the city of Milwaukee to issue charters, including the city council, known in Milwaukee as the "Common Council." As noted above, the city-county council in Indianapolis must ratify the mayor's decision to issue a charter, but the council may not serve as an authorizer in its own right.

Potential Advantages

- **Similar Advantages to Mayors.** The potential advantages of giving city councils the authority to authorize charter schools are similar to those of having a mayor become an authorizer: city councils have high visibility, access to resources, directly accountability to the public and local knowledge. What sets city councils apart is they typically possess these characteristics to a lesser degree than a mayor. Their visibility is not quite as high as that of the mayor. They have less direct control of resources such as city agencies. And because they take action as a group, they have less direct accountability than an individual mayor.
- **Ability To Build Community Support.** Because city council members are typically representative of neighborhoods or stakeholder groups throughout the city, they could be in a strong position to build community support in their area of influence. As representatives of specific neighborhoods, they are usually quite familiar with these neighborhoods and could identify which community organizations would be strong candidates to operate or support charter schools. They also would be able to identify resources that would strengthen a charter school as it gets off the ground, including partner organizations, funding opportunities and available facilities.

Potential Disadvantages

- **Lack of Stability.** As elected officials, council members are vulnerable to being replaced by individuals who are less supportive of charter schools. Council members in many cities have short, staggered terms, which make them less able to launch or sustain such an initiative.
- **Limited Ability To Set Up and Oversee Staff To Manage Day-to-Day Responsibilities.** Typically, council members do not have access to the organizational resources that are needed to support the work of authorization. Without a permanent staff of at least a few full-time employees, it would be difficult to implement a high-quality application and accountability process. City councils would need to have access to funding to support these employees, and they would also need to develop a system for monitoring this office.
- **Lack of Coherence.** Like school boards, city councils are typically elected by multiple geographic constituencies. They are thus likely to contain multiple viewpoints and perspectives and represent a variety of interests. This multiplicity of priorities can make it difficult for a council to take the kind of decisive, focused actions that are the hallmarks of strong authorizers.
- **Multitude of Responsibilities.** City council members have a wide range of responsibilities, many of which are far removed from concerns about schools. They are often part-time public servants, limiting the time they can focus on the potentially burdensome work of charter authorizing.

Policy Considerations

The same policy considerations that apply to mayors also pertain to city councils. Do city councils in the state have access to the administrative apparatus that is needed for effective authorizing? Should authority go to all city councils, just those in larger cities, just those in academically distressed areas or just those that meet state criteria? And given the actual composition of the state's city councils, are they up to the task of effective authorizing, at least for the moment?

Nonprofit Organizations

Nationwide, the vast majority of charter authorizers are public agencies. Two states – Minnesota and Ohio – however, also have empowered certain nonprofit organizations to issue charters.

Potential Advantages

- **Credibility and Visibility.** Existing nonprofits often have credibility and are well known within their communities. Such credibility could be helpful to the charter schools they authorize if, as a result, the schools are better able to attract students and resources.
- **Prevalence.** For a state interested in increasing the sheer quantity of authorizers, nonprofits offer an attractive alternative because there are a relatively large number of them.
- **Experience with the Challenges of Starting and Managing an Organization.** An existing nonprofit has dealt with many of the challenges that often face start-up charter schools – from organizing a board to managing a budget. As a result, some nonprofits are in a good position to evaluate whether a charter applicant has the ability to successfully meet these challenges. They are also in a position to provide technical assistance to approved charter schools on operational issues.
- **Knowledge about Particular Neighborhoods or Populations.** Nonprofit organizations are often designed to meet the needs of specific neighborhoods or particular clienteles. This level of community involvement could potentially enable the nonprofit to identify what types of schools would best meet the needs of students from a given area. It also could be beneficial in a nonprofit authorizer's efforts to monitor its charter schools.
- **Experience with School-Age Children.** Many nonprofit organizations already provide services to school-age children – from health services to food services to after-school programs. They often provide these services in partnership with public schools so they are familiar with the challenges that schools face and may be open to innovative ideas about how to address these challenges successfully.
- **Commitment to a Mission of Improving Opportunity for All Students.** Many nonprofits are in the business of providing opportunity to people with limited resources. Job-training programs, health clinics and community centers, for example, are all designed to improve their clients' quality of life. Too often, these organizations work to

make up for lost ground, rather than investing in what is often at the core of their client's difficulties – an inadequate and inferior education. One way for them to address this dilemma without losing sight of their own area of expertise is to take on the responsibility of becoming a charter school authorizer. In this way, a nonprofit can connect its work with a long-term investment in building quality public schools in its community.

Potential Disadvantages

- **Lack of Public Accountability.** In contrast to public bodies, nonprofits are not directly held accountable by the public. The public's instruments for holding nonprofits accountable, such as revocation of their nonprofit status, are very blunt and rarely used except in cases of extreme malfeasance. In addition, nonprofits who become charter school authorizers are unlikely to receive the same level of public scrutiny as other authorizer types such as mayors, state agencies and independent special-purpose boards. The media also is unlikely to be as interested in them. As a result, a state that designates nonprofits as charter authorizers would likely want to create a system of public accountability for them. See the Policy Considerations below for more discussion of this question, as well as the sidebar for a description of how Minnesota and Ohio have approached this issue.
- **Unfamiliarity with Many Aspects of Authorization.** In most cases, an existing nonprofit will be taking on a new responsibility – the authorization and oversight of charter schools – that is quite different from what it is currently doing. For this reason, the state needs to be certain that some nonprofits are willing and able to invest the time and resources necessary to become an effective authorizer. While nonprofits can draw on the practices of other authorizers, the design and implementation challenge is still significant. In Ohio, foundations created a nonprofit Ohio Charter School Sponsors Institute to assist nonprofits in this endeavor.
- **Competing Initiatives.** A possible problem associated with nonprofits becoming authorizers is it might cause too much strain on the existing organization. It is difficult enough to manage an effective organization designed to provide one set of services, so adding a very different set of responsibilities could result in an overall loss of effectiveness.
- **Scarce Resources.** Another potential drawback for existing nonprofits is becoming a charter school authorizer might further tax their already scarce financial and personnel resources. To successfully launch such an initiative, states need to think about how much funding is required to implement an effective authorizing system and how nonprofits who become authorizers could get additional funding.

Policy Considerations

Because nonprofits are not public agencies, a unique set of policy considerations emerges for them. The first concerns eligibility. States have hundreds or thousands of nonprofits. Will states create eligibility requirements for nonprofits that want to become charter authorizers and, if so, what will they be? For example, will nonprofits have to be previously youth-serving and, if so, what does that mean? Will they have a certain asset base or annual revenue amount to meet or some other size criterion? Will they have to meet an age criterion? As noted above, one state has considered legislation allowing new nonprofits to be formed as single-purpose authorizers. In these situations, will states entertain applications from newly forming nonprofits that wish to be authorizers?

A second consideration concerns approval. Will nonprofits that meet eligibility requirements automatically be able to charter, or will they have to seek approval? If so, from whom and through what process? A final consideration relates to oversight and accountability. Will some state agency oversee nonprofit authorizers? If so, how? What reporting requirements will nonprofits have to follow? Will nonprofits' decisions have to be vetted or approved by a state body? Under what circumstance can a nonprofit lose its "license" to authorize?

New versus Existing Nonprofits

Many of the considerations above relate to existing nonprofits taking on the role of charter authorizer. Legislation introduced in Minnesota, however, takes a different tack: it gives the state the authority to empower new organizations to be formed as single-purpose charter authorizers. Such authorizer might have a focus on a certain geographic area, a certain kind of student population or a certain type of school design. Because such organizations would be "chartered" by the state for the express purpose of authorizing, they would arguably have a certain degree of direct public accountability. And because they would be start-up, single-purpose authorizers, they would not have the competing demands and priorities that can create problems for existing nonprofits that become charter authorizers.

Table 3
How Nonprofit “Sponsorship” Works in Minnesota and Ohio

	Minnesota	Ohio
Which nonprofits are eligible to serve as authorizers (sponsors)?	Nonprofit corporations exempt under 501(c)(3) must be a member of the Minnesota Council of Nonprofits or Council on Foundations and report an end-of-year fund balance of at least \$2,000,000. 501(c)(6) corporations that have been in existence for at least 25 years may sponsor charter schools that have operated for at least three years under a different sponsor.	Nonprofit corporations must be recognized as a 501(c)(3), have a declared educational mission, have been in existence for at least five years and have at least \$500,000 in assets at the time they are considered for eligibility.
What is the approval process?	A nonprofit must file an affidavit with the state department of education stating its intent to authorize a charter school and outlining the terms and conditions under which the nonprofit would authorize a charter school. The state commissioner of education approves or disapproves the nonprofit’s proposed authorization within 60 days of receipt of the affidavit.	The nonprofit must file an application with the state department of education outlining how it will monitor and evaluate the academic and fiscal performance of schools, ensure schools’ compliance with its contract and all applicable laws, report on the academic and fiscal oversight of schools, and intervene if charter schools fail to perform satisfactorily. The nonprofit also must have representatives located within 50 miles of the any school it sponsors.
Oversight and accountability	Nonprofits must submit reports about fiscal and student performance at each school to the state department of education “in a timely manner.” The state commissioner of education may terminate the nonprofit’s relationship if a charter school has a history of financial mismanagement or repeated violations of the law.	The state board of education may revoke the authority of a nonprofit at any time if the board finds the nonprofit has failed to comply with applicable law or with the sponsorship agreement or charter school contract to which it is a party.

Regional Educational Entities

Many states have intermediate or regional educational agencies that span multiple school districts. Some states have empowered these entities as charter authorizers, including Michigan, Minnesota and Ohio. In California, county offices of education can issue charters that operate in multiple sites across a county or upon appeal of a local school board’s rejection of a charter application.

Potential Advantages

- **Regional Perspective Allows Authorizers To Identify Needs.** Regional educational entities can take a broader perspective on the provision of public education than local school districts. They can identify what is needed across the region and authorize charter schools designed to meet the requirements of particular students whose needs are not being well met by individual districts – for example, drop outs or those at risk for dropping out of school, gifted students and students with behavior challenges. Regional provision also could be a more efficient way to provide certain programs – distance learning programs, for example – to those who want them.
- **Access to Resources.** A school chartered by a regional educational entity could tap into the wide array of resources such an organization offers, such as after-school and extracurricular programs, technology support, back-office financial and human resources operations, transportation, and special education.

- **Insulation from Politics.** In contrast to local school boards, regional educational entities are often one step removed from the politics that can hinder local school board decisionmaking. It may therefore be easier for regional bodies to make child-centered decisions about charter authorization and accountability.
- **Expertise in Managing Schools.** Some regional educational entities have direct experience managing schools and school programs.

Potential Disadvantages

- **Lack of Independence from Local School Boards.** Boards composed of local school board members and superintendents or their designees govern some regional educational entities. For a state eager to find alternatives to local school board authorization, such regional boards may not provide enough of an alternative to free up authorizing significantly.
- **Multiple Responsibilities.** Regional educational entities could be hindered by too many competing responsibilities. Careful thought would have to go into planning how a separate authorizing office within the entity would be funded and staffed.
- **Lack of Public Accountability.** The flip side of regional educational entities' insulation from politics is their lack of direct public accountability. Their actions are likely to receive less scrutiny than those of more directly accountable authorizers, and the public has limited means of holding them accountable if they do a poor job of authorizing.

Policy Considerations

The status of regional educational entities varies greatly from state to state. At one end of the continuum, some states do not have such regional entities. At the other end, some states have highly regarded, high-capacity regional infrastructure. States in between have regional entities with a range of capabilities and credibility. Where a state lies on that continuum will be a critical consideration for policymakers examining this option.

As with other types of authorizers, states also need to consider whether all regional entities will be designated as charter authorizers or only certain ones. In the latter case, will regional entities meeting certain criteria automatically be designated, or will there be some kind of approval process? How will the approval process work? How will the entities be held accountable over time for their decisions?

CREATING A STATE AUTHORIZING SYSTEM

State policymakers interested in creating alternative authorizers face two critical sets of design issues. The first relates to what mix of charter authorizers makes sense for their state. The second relates to the systems that states must establish to select authorizers, provide them with capacity and hold them accountable for high-quality authorizing.

Mix of Charter Authorizers

The previous section considered several discrete types of authorizers one by one. But what mix of authorizers makes sense in a particular state?

- **Consider the Actual Institutions in the State.** This brief has outlined hypothetical advantages and pitfalls, but what do these entities really look like in the state in question? For instance, are there universities and colleges that are interested and capable? Or are mayors a viable option? Looking at actual capacity may help narrow the list of possibilities. It also may suggest the need to consider creating new entities, either by creating an independent special-purpose charter board (as in Arizona and the District of Columbia) or by inviting proposals to establish new single-purpose authorizers (as has been proposed in Minnesota).
- **Consider Constitutional and Legal Issues.** Some state constitutions require public education to be overseen by states and/or districts. These provisions may rule out non-state and/or non-district authorizers. In addition, careful legislative drafting may be necessary to ensure schools chartered by alternative authorizers still qualify as public schools under constitutional and legal definitions. For example, it may be necessary in some states for the state board of education to exert some kind of final approval over charters issued or to oversee alternative authorizers in some way.
- **Consider the Potential Quality-Quantity Tradeoff.** More authorizers means more opportunities for charter schools to open, creates more room for experimentation and focus, and produces a dynamic of competition that can spur improvement in authorizing practices. But having more authorizers may mean dipping deeper into the quality pool, especially if financial and leadership resources are scarce. In addition, some research on charter authorizing has found that authorizers with higher levels of authorizing volume are more effective than those that only charter one or two schools. As one study concluded, “States with fewer authorizers, serving more schools each, appear to be doing a better job.”⁴

Colorado Charter School Institute

Colorado's state constitution contains strong language granting local school boards control over public education. Article IX, Section 15 of the state constitution vests the directors of local boards of education with “control of instruction in the public schools of their respective districts.” Colorado is one of only six states with such an express constitutional provision for local governance, and its state courts have consistently emphasized principles of local control. In the state's initial charter law, only local school boards could issue charters. Rejected applicants could appeal to the state board of education, but even in the case of successful appeals the local school board would, at the direction of the state board, become the school's authorizer. So when legislators decided to create an alternative statewide authorizer, they faced a serious constitutional challenge – how to empower an alternative statewide authorizer within the constraints of the local control provisions?

Legislation creating the Colorado Charter School Institute addressed this challenge by giving individual local school boards the opportunity to retain “exclusive jurisdiction” – the exclusive authority to issue charters. In districts with exclusive jurisdiction, the institute is prohibited from issuing charters. Districts with less than 3,000 students or in which charter school enrollment represents a disproportionate percentage of students who qualify for free or reduced-price lunch can request automatic exclusive authority by the state board. Those districts that do not automatically receive exclusive authority but desire it must apply to the state board. To grant exclusive authority to a district, the state board must determine the district has provided equitable treatment to its charter schools during the four years prior to the local board's application for exclusive authority based on several factors, including compliance with full and accurate accounting practices and principles for central administrative overhead costs and the absence of a school district moratorium on chartering or districtwide charter school enrollment limits. The state board's determinations may be legally challenged by anyone within 30 days of the state board's decision.

A related concern relates to the potential for a “race to the bottom” in a multiple authorizer context. If a state has a large number of charter authorizers and if authorizers’ revenue is tied to the scale of their “portfolio,” then authorizers may have an incentive to compete for potential charter applicants. Some competition could be healthy – it could result in streamlined application processes, elimination of needless regulation and red-tape, and lower authorizing fees for charter applicants. But if competition produces lower expectations for student learning, then it works against the aims of charter school accountability.

This last consideration points to the need for state policymakers to consider the mix of authorizer types within the context of the broader system through which authorizers are funded and held accountable.

Support Systems for High-Quality Authorizing

Through its policies, a state creates the environment within which charter authorizing takes place. This environment has several components, including:

- **Funding.** Does the state seek to ensure authorizers have the resources to carry out their functions? On the one hand, insufficient resources can hinder effective authorizing. On the other, states may wish to encourage authorizers to come up with their own resources, both to conserve state funds and to engender a high level of commitment by authorizers. If a state decides to provide funding, how should it do so? Through a state appropriation? By allowing authorizers to retain a portion of per-pupil funding from schools they charter or otherwise charge schools fees? State policymakers need to pay careful attention to the incentives created by whatever funding system they establish. For example, funding tied to the number of schools may encourage authorizers to charter more schools than they should, effectively lowering the bar for approval. And it may make authorizers reluctant to close poorly performing schools. Funding tied to enrollment may encourage authorizers to charter schools that are larger than they would otherwise. At the same time, other mechanisms, like a flat appropriation for authorizing, might provide insufficient resources for high-volume authorizers.
- **Eligibility and Approval.** Do authorizers have to meet any criteria or go through some kind of process to become eligible to authorize? If so, what? Criteria could include size, longevity or other measures of capacity. A process could ask prospective authorizers to explain the systems they plan to use as authorizers, which could then be assessed according to the state’s criteria for high-quality authorizing systems.
- **Authorizer Switching.** Can a school apply to switch authorizers? Can they do so within a charter term? Must a state entity vet requests to switch?
- **Decisionmaking.** Are authorizers’ decisions subject to approval by some state entity? Can applicants appeal rejections to a state entity? If so, through what process?
- **Caps.** If a state with multiple authorizers has a cap on the number of charter schools or the number of charters issued in a year, how does the “rationing” process work? Does the state maintain a first-come-first-served list, and shut off authorizing once the cap is reached? Or do individual authorizers receive a certain number of charters they can issue? In that case, what happens to unused charters? What happens to charters that are revoked or relinquished?
- **Accountability over Time.** Do authorizers have to meet any performance standards to retain their authority to authorize charters? If so, what? Who decides, and through what process? What happens to schools chartered by a certain authorizer if the authorizer loses its “license”?

Each of these design issues merits careful thought, and there are few easy answers. Yet together, they create the environment within which authorizing will take place in a state. Given the importance of quality authorizing to the creation of quality schools, working through these critical issues is well worth the effort for state policymakers.

Appendix A

Who Can Authorize Charter Schools in Each State?

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Alaska	Dual approval from local board and state board of education (SBE)			Dual approval from local board and SBE				
Arizona	Yes	Arizona State Board for Charter Schools		SBE				
Arkansas	Dual approval from local board and SBE			Dual approval from local board and SBE; denied applicants may appeal to SBE				
California	Yes			SBE if sites across multiple counties; applicants denied by county boards may appeal to SBE				County boards may approve multi-site schools within county; applicants denied locally may appeal to county boards
Colorado	Yes ⁵	Colorado Charter Schools Institute		Denied applicants may appeal to SBE				

State	Independent		Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
	Local School Boards	Charter Boards						
Connecticut	Dual approval from local board and SBE			SBE can approve directly or jointly with local or regional board				Dual approval from regional board and SBE
Delaware	Yes			Start-ups, with approval of both SBE and state secretary of education				
District of Columbia	Yes	District of Columbia Public Charter Schools Board						
Florida	Yes		State universities and community college district boards ⁶	Denied applicants may appeal to SBE				
Georgia	Dual approval from local board and SBE			Dual approval from local board and SBE; denied applicants may appeal to SBE				
Hawaii				SBE upon recommendation of charter school review panel				
Idaho	Yes	State public charter school commission may approve start-ups		Denied applicants may appeal to state commissioner of education (SCE), then SBE				

State	Independent			State Boards/ Commissioners/ Departments of Education			City			Regional	
	Local School Boards	Charter Boards	Universities and Colleges				City Councils	Nonprofit Organizations		School Districts	
Illinois	Yes					If local voters approve charter in referendum, then SBE must approve it; denied applicants may appeal to SBE					
Indiana	Yes ⁷	Denied applicants may appeal to a state charter school review panel	Public universities for applicants outside of Marion county			Indianapolis only					
Iowa	Dual approval from local board and SBE					Dual approval from local board and SBE; denied applicants may appeal to SBE					
Kansas	Dual approval from local board and SBE					Dual approval from local board and SBE					
Louisiana	Yes					SBE; denied applicants may appeal to SBE					
Maryland	Yes					SBE on appeal of local rejection or when restructuring a school as a charter school					
Massachusetts	Dual approval from local board and SBE for Horace Mann charter schools					SBE for Commonwealth charter schools and dual approval from local board and SBE for Horace Mann charter schools					

State	Independent		State Boards/			Mayors	City Councils	Nonprofit Organizations	Regional School Districts
	Local School Boards	Charter Boards	Universities and Colleges	Departments of Education	Commissioners/				
Michigan	Yes		Community colleges or state public universities						Intermediate school boards
Minnesota	Yes, subject to approval by SCE		Public postsecondary institutions or private colleges, subject to approval by SCE	SCE must approve all charters; denied applicants may appeal to SCE				Cooperatives and nonprofit organizations, subject to approval by SCE	Intermediate school boards, subject to approval by SCE
Mississippi	Dual approval from local board and state department of education (SDE)			Dual approval from local board and SDE; denied applicants may appeal to SBE					
Missouri	Kansas City and St. Louis school boards		Community college or a public four-year college or university in or near the Kansas City or St. Louis school districts	SBE may disapprove the granting of a charter					
Nevada	Dual approval from local board and SDE			Dual approval from local board and SDE; charter schools serving special education students must be approved by SDE; denied applicants may appeal to SBE					

State	Independent			State Boards/ Commissions/ Departments of Education			City			Regional	
	Local School Boards	Charter Boards	Universities and Colleges			Mayors	Councils	Nonprofit Organizations	School Districts		
New Hampshire	Dual approval from local board and SDE				SBE directly* or dual approval from local board and SDE; denied applicants may appeal to SBE						
New Jersey					SCE; denied applicants may appeal to SBE						
New Mexico	Yes				Denied applicants may appeal to SBE ⁹						
New York	Local school boards and the New York City chancellor		State Univer- sity of New York board of trustees may approve start- ups		State Board of Regents (SBR) may approve start- ups; all other authorizer decisions subject to SBR approval						
North Carolina	Dual approval from local board and SBE		Dual approval from any campus in the University of North Carolina system and SBE		SBE directly or dual approval with local or university boards; denied applicants may appeal to SBE						
Ohio ¹⁰	Yes		State universities as approved by SDE may approve start- ups		SDE when another authorizer fails to comply with its obligation as sponsor			Federally tax-exempt entities, as approved by SDE may approve start- ups	Boards of joint vocational school districts and educational service centers for start-ups		
Oklahoma ¹¹	Yes								Area vocational- technical school district		

State	Independent		Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
	Local School Boards	Charter Boards						
Oregon	Yes			Denied applicants may appeal to SBE				
Pennsylvania	Yes	Denied applicants may appeal to a state charter school appeals board						
Rhode Island	Dual approval from local board and State Board of Regents			State Board of Regents after approval by local board or SCE				
South Carolina	Yes, after review by the state charter advisory committee			Denied applicants may appeal to SBE				
Tennessee	Yes			Denied applicants for start-up "alternative charter schools" may appeal to SBE				
Texas	Yes for district approved charters			SBE for open-enrollment charters				

State	Local School Boards	Independent Charter Boards	Universities and Colleges	State Boards/ Commissioners/ Departments of Education	Mayors	City Councils	Nonprofit Organizations	Regional School Districts
Utah	Yes, subject to SBE approval	State charter school board directly or on appeal of local rejection, subject to SBE approval		SBE must ratify others' approval; applicants denied by state charter school board may appeal to SBE				
Virginia	Yes							
Wisconsin	Yes		Three specific public institutions only ¹²	Applicants rejected by local board in Milwaukee may appeal to state superintendent of public instruction		Common Council of Milwaukee only		
Wyoming	Yes			Denied applicants may appeal to SBE				

ENDNOTES

¹ National Association of Charter School Authorizers, *Principles & Standards for Quality Charter School Authorizing*, Alexandria, VA: Author, 2005.

² Ted Kolderie, *Creating the Capacity for Change: How and Why Governors and Legislature Are Opening a New-Schools Sector in Public Education*, St. Paul, MN: Education Evolving, 2004.

³ CRS 22-30.5-503.

⁴ Louann Bierlein Palmer and Rebecca Gau, *Charter School Authorizing: Are States Making the Grade?* Washington, DC: The Thomas B. Fordham Institute, 2003, p. 1. See also Bryan C. Hassel and Meagan Batdorff, *High-Stakes: Findings from a National Study of Life-or-Death Decisions by Charter School Authorizers*. Chapel Hill, NC: Public Impact, 2004.

⁵ A charter school applicant may submit an application to the local board or, if the school district in which the charter school is to be located has not retained exclusive authority to authorize charter schools from the SBE, to the state charter schools institute.

⁶ A state university may grant a charter to a lab school. A community college district board of trustees may grant a charter to a charter technical career center.

⁷ When 50% of the students in a district will attend a charter school, a local school board must get approval from the state department of education.

⁸ Direct approval by SBE only available between July 1, 2003, and June 30, 2013.

⁹ SBE also may review local board decisions on its own motion. Approved applicants also may appeal unacceptable conditions imposed by local boards to SBE.

¹⁰ In Ohio, start-up charter schools are limited to “big eight” school districts, “academic emergency” school districts, “academic watch” school districts and school districts that are part of a “pilot project area.”

¹¹ Charter schools may only be sponsored by a school district or an area vocational-technical school district in districts with an average daily membership of 5,000 or more, and in which all or part of the district is located in a county having more than 500,000 residents or in a county which is contiguous with a county having 500,000 residents.

¹² University of Wisconsin-Milwaukee and Milwaukee Area Technical College may serve as charter authorizers in Milwaukee. The University of Wisconsin-Parkside may sponsor one charter school in Racine.

© 2005 by the Education Commission of the States (ECS). All rights reserved.

The Education Commission of the States is an interstate compact that helps state leaders shape education policy.

Copies of this status report are available for \$10.00 plus postage and handling from the Education Commission of the States Distribution Center, 700 Broadway, Suite 1200, Denver, CO 80203-3460; 303.299.3692. Ask for No. GV-05-05. ECS accepts prepaid orders, MasterCard, American Express and Visa. All sales are final.

ECS is pleased to have other organizations or individuals share its materials with their constituents. To request permission to excerpt part of this publication, either in print or electronically, please write or fax the Communications Department at the above address or e-mail ecs@ecs.org.

Please add postage and handling if your order totals: Up to \$10.00, **\$3.00**; \$10.01-25.00, **\$4.25**; \$25.01-50.00, **\$5.75**; \$50.01-75.00, **\$8.50**; \$75.01-100.00, **\$10.00**; over \$100.01, **\$12.00**.

Generous discounts are available for bulk orders of single publications. They are: 10-24 copies, 10% discount; 25-49 copies, 20%; 50-74 copies, 30%; 75-99 copies, 40%; 100+ copies, 50%.

Helping State Leaders Shape Education Policy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 135
SPONSOR(S): Greenstein
TIED BILLS:

Charter Schools

IDEN./SIM. BILLS: SB 1030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee		Hunker	Kooi
2) Civil Justice Committee			
3) Education Appropriations Committee			
4) Education Council			
5) _____			

SUMMARY ANALYSIS

This bill amends section 1002.33, relating to charter schools.

HB 135 provides that the district school board sponsor of a charter school shall not be held liable for civil damages for certain actions or omissions committed by the charter school's governing board.

This bill also provides that the sponsor's duty to monitor a charter school may not be used as the basis for a lawsuit against the sponsor.

This bill expands a school district's immunity from assumption of contractual debts to cover all contracts made between the charter school governing body and a third party.

The bill provides that it shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill reduces the liability of school district sponsors for the acts or omissions of charter schools.

Promotes Personal Responsibility – This bill increases personal accountability by providing that charter schools (and not the school district sponsors) will retain sole responsibility for the charter schools' acts and omissions.

B. EFFECT OF PROPOSED CHANGES:

Charter schools are public schools that operate under a performance contract, or a "charter" entered into with a sponsoring school district. The charter school statute (s. 1002.33) frees them from many regulations created for traditional public schools while holding them accountable for academic and financial results.

School Board Sponsor Liability

Currently, s. 1002.33 is silent with respect to whether a sponsor school district can be held liable for the acts and omissions of charter schools or their agents, employees or governing board.

However, in the case of *P.J. v. Gordon*, the United States District Court for the Southern District of Florida ruled that the school board's statutory responsibilities for approving the school's charter and monitoring its implementation do not subject it to civil liability for actions and omissions relating to the day-to-day management of the charter school.¹ The court specifically noted that s.1002.33 imposes no duty on the school board sponsor to monitor or supervise the hiring, training or supervision of the charter school's employees or to ensure that the charter school maintains adequate procedures for ensuring the safety and welfare of its students.²

The court noted that the district sponsor's statutory duties involve ensuring academic accountability, monitoring revenues and expenditures, and approving and monitoring the provisions of the charter agreement.

This bill would codify the court's ruling with regard to the district's immunity from suit for day to day operations (acts and omissions) of a charter school as well as employment actions of a charter school. It would then go further and also provide the district with protection from any private cause of action based on the monitoring responsibilities of the district with regard to any charter school it sponsors.

Sovereign Immunity

Article X, section 13 of the Florida Constitution provides "absolute immunity for the state and its agencies absent waiver by legislative enactment or a constitutional amendment."³ Section 768.28(5), F.S., provides a limited waiver of the state's sovereign immunity by making the state and its agencies and subdivisions liable for tort claims in the same manner and to the same extent as a private individual under the circumstances. Despite s. 768.28(5)'s waiver, Florida's Fourth District Court of Appeals

¹ *P.J. v. Gordon*, 359 F.Supp. 2d 1347, 1351 (SD Fla. 2005).

² *Id.* at 1349-50.

³ *Orlando v. Broward County*, --- So. 2d ---, 2005 WL 3478364, at *2 (Fla. 4th Dist. Ct. App. 2005) (quoting *Cir Ct. of the Twelfth Jud. Cir. v. Dep't of Natural Resources*, 339 So. 2d 1113, 1114 (Fla. 1976)).

recently determined that certain discretionary, planning-level decisions of a school board remain immune from tort liability.⁴

In the context of charter schools, to the extent a sponsor school district's monitoring duties may be properly characterized as "discretionary" or "planning-level," they may already be immune from tort liability under the doctrine of sovereign immunity. The bill serves as a clear legislative intent *not* to waive sovereign immunity for such duties.

Contract Liability

In the event of a non-renewal or termination of a charter, s. 1002.33 currently prevents a district from assuming any of the charter school's debts for service contracts, except where the district and the charter school governing board previously agreed in detail in writing that the district would assume the debt. This bill expands this limitation to include all contractual debts of the charter school, not just those for services.

C. SECTION DIRECTORY:

Section 1. Amends s. 1022.33 relating to charter schools; provides that the sponsor of a charter school shall not be liable for civil damages for certain actions; provides that the duty to monitor a charter school shall not give rise to a private cause of action; expands a school district's immunity from assumption of contractual debts.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁴ *Id.* (citing *Commercial Carrier Corp. v. Indian River County*, 371 So. 2d 1010, 1022 (Fla. 1979) (holding that although s. 768.28 evinces the intent of the legislature to waive sovereign immunity on a broad basis, nevertheless, certain "discretionary" governmental functions remain immune from tort liability)).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 135

2006

A bill to be entitled

An act relating to charter schools; amending s. 1002.33, F.S.; providing that the sponsor of a charter school shall not be liable for civil damages for certain actions; providing that the duty to monitor a charter school shall not be the basis for a private cause of action; expanding a school district's immunity from assumption of contractual debts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (5) and paragraph (f) of subsection (8) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.--

(5) SPONSOR; DUTIES.--

(b) Sponsor duties.--

1.a. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.

b.2- The sponsor shall monitor the revenues and expenditures of the charter school.

c.3- The sponsor may approve a charter for a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working capital.

d.4- The sponsor's policies shall not apply to a charter school.

HB 135

2006

~~e.5.~~ The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

~~f.6.~~ The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

g. The sponsor shall not be liable for civil damages under state law for personal injury, property damage, or death resulting from an act or omission of an officer, employee, agent, or governing body of the charter school.

h. The sponsor shall not be liable for civil damages under state law for any employment actions taken by an officer, employee, agent, or governing body of the charter school.

i. The sponsor's duties to monitor the charter school shall not constitute the basis for a private cause of action.

2. Nothing contained in this paragraph shall be considered a waiver of sovereign immunity by a district school board.

A community college may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. District school boards shall cooperate with and assist the community college on the charter application. Community college applications for charter schools are not subject to the time deadlines outlined in subsection (6)

HB 135

2006

57 and may be approved by the district school board at any time
58 during the year. Community colleges shall not report FTE for any
59 students who receive FTE funding through the Florida Education
60 Finance Program.

61 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

62 (f) If a charter is not renewed or is terminated, the
63 charter school is responsible for all debts of the charter
64 school. The district may not assume the debt from any contract
65 ~~for services~~ made between the governing body of the school and a
66 third party, except for a debt that is previously detailed and
67 agreed upon in writing by both the district and the governing
68 body of the school and that may not reasonably be assumed to
69 have been satisfied by the district.

70 Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0135

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Choice & Innovation Committee
Representative(s) Greenstein offered the following:

Amendment (with title amendment)

Remove line(s) 46 and insert:

2. Immunity for the sponsor of a charter school under
subparagraph 1. applies only with respect to acts or omissions
not under the sponsor's direct authority as described in this
section.

3. Nothing contained in this paragraph shall be considered

===== T I T L E A M E N D M E N T =====

Remove line(s) 6 and insert:

not be the basis for a private cause of action; prescribing
limits on immunities of a charter school sponsor; expanding

000000

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CI 06-03 Charter Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee		Hassell	Kooi
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The PCB substantially amends provisions of s. 1002.33, F.S. related to charter schools. The PCB adds new fiscal accountability requirements related to the charter school's annual financial report and new academic accountability requirements for charter schools graded D or F. The PCB revises the responsibilities of the Department of Education (DOE), of charter school sponsors, and charter school governing boards.

The PCB makes changes to the application process, review and appeal, the initial term and renewal of charter agreements, and procedures for nonrenewal, termination and immediate termination of charter schools. It requires the DOE to offer technical assistance to charter school applicants, to develop a uniform, on-line charter school accountability report and a standard charter and renewal format, and to regularly convene a Charter School Review Panel.

The PCB requires district school boards to make timely payments to charters and authorizes the Commissioner of Education to withhold funds from a school district that fails to do so. Furthermore, the PCB authorizes the State Board of Education to impose fines or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, or nonrenewal appeals.

The PCB adds exceptional student education evaluation services to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request.

The PCB extends educator professional liability coverage to all full-time charter school instructional personnel, eliminates priority given to transitioning students of military families, provides transportation funding to eligible charter schools, and revises capital outlay funding for charter schools.

The PCB makes conforming changes to the provisions of law related to financial management.

The PCB should have minimal or no fiscal impact. See the FISCAL COMMENTS section of the analysis.

The PCB provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Department of Education (DOE) to staff the Charter School Review Panel and to create a standard charter format and charter renewal format to be used as guidelines by charter school sponsors.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Legislature authorized charter schools in 1996. Since their introduction in 1996, the number of charter schools operating in Florida has grown from 5 to 333.¹ In 1996, the 5 schools served 574 students and in 2005-06 the 333 schools currently serve approximately 92,158 students.² The legislative principles guiding Florida charter schools are to meet high standards of student achievement while increasing parental choice within the public school system, align responsibility with accountability, and provide parents with sufficient information relating to their child's reading level and learning gains.³

As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under current law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.⁴ Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under 1002.32, F.S.⁵ The charter is an agreement signed by the governing body of the school and the sponsor that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Charter schools are often free from many state and local regulations and mandates, but are held accountable to the sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Effects of Proposed Changes

Purpose of Charter Schools

The statutory purpose of charter schools is to improve student learning and academic achievement, increase learning opportunities of all students, create new professional opportunities for teachers, encourage the use of innovative learning methods, and measure learning outcomes.⁶ Currently, charter schools may fulfill the following purposes: create innovative measurement tools, provide rigorous competition within the public school district, expand the capacity of the public school system, and mitigate the educational impact created by the development of new residential dwelling units.

¹ www.floridaschoolchoice.org

² *Id.*

³ FLA. STAT. ch. 1002.33(2)

⁴ FLA. STAT. ch. 1002.33(5),(6)

⁵ S. 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

⁶ s. 1002.33(2)(b), F.S.

The PCB requires charter schools to improve student learning and academic achievement, increase learning opportunities for all students with emphasis on low-performing students, and encourage the use of innovative learning methods. Also, it revises the list of purposes that a charter school may fulfill to include the options of creating new professional opportunities for teachers and requiring the measurement of learning outcomes.

Application for Charter Status

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.⁷ Alternatively, a public school that has been in operation for at least two years may convert to a charter school pursuant to an application by the district school board, the principal, teachers, parents, and/or the school advisory council.⁸ The PCB clarifies that a public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status.

Under current law, district school boards must notify conversion charter school applicants that their application has been denied within 30 days of the school board meeting denying their application. On the other hand, district school boards only have 10 days after the meeting to notify charter school applicants that their application has been denied. Thus, the PCB makes consistent the requirement that district school boards notify both conversion charter school applicants and charter school applicants within 10 days of the meeting denying their application.

Sponsor Duties

Currently, only a district school board may sponsor a charter school in the county where the district school board has jurisdiction.⁹ However, a state university may grant a charter to a lab school in which case the university is considered to be the charter lab school's sponsor.¹⁰ Sponsor duties include, but are not limited to, monitoring and reviewing the charter school's progress towards the established goals, monitoring the charter school's revenues and expenditures, and ensuring that the charter school participates in the state's education accountability system.¹¹

The PCB provides that the sponsor's policies do not apply to charters schools unless they are mutually agreed to by the sponsor and the charter school. Additionally, sponsors must provide charter schools with reasonable and specific justification before imposing additional reporting requirements on charter schools. These provisions provide additional measures to ensure that sponsors do not place unnecessary requirements on charter schools.

Application Process and Review

Section 1002.33(6), F.S., provides for the application process and review of a charter school. A person or entity wishing to open a charter school prepares and submits an application to be considered by a district school board on or before September 1 of each calendar year. Applications are required to be approved or denied by majority vote within 60 calendar days after the application is received, unless the applicant and the district school board mutually agree to postpone the vote to a specific date. If the district school board fails to act on the application then the applicant may appeal to the SBE. If the district school board denies an application, the board must notify the applicant in writing and cite specific reasons based upon good cause for denying the application.

Current law provides charter school applicants with procedures for appeal to the Charter School Appeal Commission if the charter has been denied, not renewed, or terminated or if mediation has failed to

⁷ s. 1002.33(3), F.S.

⁸ *Id.*

⁹ s. 1002.33(5), F.S.

¹⁰ *Id.*

¹¹ s. 1002.33(5)(b), F.S.

resolve disputes over contract negotiations.¹² The Charter School Appeal Commission may receive and review documents forwarded to the SBE, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. Decisions by the Charter School Appeal Commission are not subject to the provisions of the Administrative Procedures Act. The SBE must consider the commissioner's recommendation; however, the SBE is not bound by the recommendation.

Subsequent to the approval of the charter school application, the DOE is required to provide mediation services for any dispute relating to the charter's provisions and any dispute relating to the approved charter, except for disputes relating to charter school application denials. A dispute, except a dispute pertaining to charter school application denial, may be appealed to an administrative law judge if the Commissioner of Education determines that the dispute cannot be settled through mediation.¹³

The PCB provides that beginning with the 2007-2008 school year, the charter school application deadline is changed from September 1 to August 1. Also, in instances where the district school board denies an application, the PCB requires the board to provide the applicant and the DOE with supporting documentation stating the specific reason for the denial of the charter application.

The PCB clarifies that the SBE's decision is final action subject to judicial review in the district court of appeal and that an administrative law judge may not rule on issues relating to the denial of an application or on issues relating to the termination or nonrenewal of a charter. Also, the PCB removes the provision that allows disputes over contract negotiations that have not been resolved through mediation to go before the Charter School Appeal Commission.

The PCB directs the DOE to offer training and technical assistance to charter school applicants on issues related to the financial and business side of charter school operation. According to OPPAGA, charter schools face considerable challenges related to start-up and facilities related costs that put charter schools at risk for chronic financial deficits. More specifically, new charter schools may underestimate the high start-up and facilities related costs associated with opening a charter school and are unable to obtain sufficient funds to cover these costs associated with opening.¹⁴ Thus, the PCB requires that the assistance offered by the DOE must address estimating start-up costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school will be eligible to receive.

Charter Agreement

A charter is a written contractual agreement between the sponsor and the charter school's governing board that sets forth the terms and conditions for the operation of a charter school. The initial term of a charter may be 3, 4, or 5 years and is to be renewed every 5 years if the criteria have been successfully accomplished and if none of the grounds for nonrenewal are documented. For easier access to long-term financial resources for facility construction, current law allows a charter school operated by a municipality or other public entity or a charter lab school to be eligible for up to a 15-year charter. However, a charter school that is operated by a private, not-for-profit, s. 501(c)(3) status corporation is only eligible for up to a 10-year charter.

The PCB shortens the negotiation process on the charter's provisions from 6 months to 3 months between applicants and sponsors. It requires the proposed charter to be provided to the charter school at least 7 days prior to the vote of the sponsor. This gives the charter school an opportunity to review the proposed charter and to ensure that all provisions of the agreement have been codified in the charter. Also, the PCB changes the initial charter term to 5 years and revises the provision so that a charter school operated by a private, not-for-profit, s. 501(c)(3) status corporation is also eligible for up to a 15-year charter.

¹² s. 1002.33(6), F.S.

¹³ *Id.*

¹⁴ OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 7.

The PCB provides that a charter is to be automatically renewed if the criteria have been successfully accomplished and if none of the grounds for nonrenewal were documented. Additionally, the PCB provides that the 15-year charter renewal shall be granted if the school has received a grade of "A" or "B" in 3 of the past 4 years and is not in a state of financial emergency or a deficit financial position.

Financial Oversight

Lack of expertise in education budgeting and finance and with government accounting conventions are additional challenges facing charter schools. Identifying and assisting charter schools with deteriorating financial conditions is challenging without complete, accurate, and timely financial data.¹⁵ According to an OPPAGA report, it is important for the DOE to take a more proactive approach with charter schools in their first years of operation and to have more effective methods to identify and assist charter schools either at risk of financial difficulty or in need of assistance to overcome financial deficit.¹⁶ Furthermore, in the November 1, 2004-October 31, 2005 Florida Auditor General Annual Report¹⁷, the Auditor General determined that the laws governing charter schools do not contain comparable reporting requirements for charter schools operating with deteriorating financial conditions.¹⁸ Therefore, the Auditor General recommended that, at a minimum, the auditor notify the governing board of the charter school of the deficit financial position and that those charter schools should be required to file a detailed financial recovery plan with the sponsoring district school board.¹⁹

The PCB addresses the OPPAGA findings and the Auditor General recommendations by detailing procedures the charter school, the sponsor, and the charter school governing board must follow when a state of financial emergency exists. The charter is required to specify that the auditors of a charter school whose internal audit or an annual financial audit reveals a state of financial emergency or deficit financial position must notify the charter governing board, the sponsor, and the DOE.²⁰ The auditor is also required to report, within 7 working days, such findings in the form of an exit interview to the principal or principal administrator of the charter school and the chair of the governing board. Charter schools that are found to be in a state of financial emergency must file a detailed financial recovery plan with the sponsor and the DOE is required to establish guidelines for the development of such plans. The governing board is also required to maintain oversight of the charter school by ensuring an annual audit report is conducted, reviewing and approving the report and monitoring a financial recovery plan, if implemented.

Nonrenewal or Termination of Charter

Current law provides that sponsors may choose not to renew or terminate the charter if the charter school fails to participate in the state's education accountability system, fails to meet generally

¹⁵ OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 1.

¹⁶ *Id.* at 11. OPPAGA recommended clarifying the Department of Education's role to include the following responsibilities: ensuring that technical assistance is available to charter schools for developing business plans and estimating costs and income is available; ensuring that training and technical assistance is provided for administrators in planning, budget, management, and financial reporting; developing a monitoring system that includes a comprehensive list of financial indicators to be used for the early identification of charter schools at greatest risk for financial difficulty; ensuring that training and technical assistance is provided to charter schools in deteriorating financial conditions; annually reporting schools identified as being at risk for financial difficulties and the actions that have been taken to assist the school; and developing a modified annual financial report for charter schools with additional guidelines for expenditure reporting.

¹⁷ The Auditor General Annual Report Numbers 2005-054 and 2006-034, *Report on Significant Findings and Financial Trends in Charter Schools and Charter Technical Career Center Audit Reports Prepared by Independent CPAs*, November 2004 – October 2005.

¹⁸ FLA. STAT. ch. 219.39(5), requires the auditor of a local governmental entity or district school board to notify each member of the governing board for which deteriorating financial conditions exist that may result in a state of financial emergency as defined by Section 218.503, Florida Statutes.

¹⁹ The Auditor General Annual Report Numbers 2005-054 and 2006-034; OPPAGA at 12.

²⁰ See s. 218.503, F.S., Determination of financial emergency

accepted standards of fiscal management, violates a state law, or if other good cause is shown.²¹ Sponsors are required to notify the governing body of the school of the proposed action at least 90 days prior to the nonrenewal or termination. The charter school may request, within 14 days after receiving the notice, an informal hearing before the sponsor. The informal hearing must be conducted within 30 days by the sponsor. The charter school's governing board may appeal the sponsor's decision to not renew or terminate within 14 days after receiving the sponsor's decision.

The PCB specifies that a sponsor may choose not to renew, terminate or immediately terminate a charter based on the sponsor's determination that the health, safety, and welfare of the students is threatened rather than for the current law provision of good cause shown. In the event of nonrenewal, termination, or immediate termination, the PCB revises the notification requirements and appeals procedure so that they are consistent with the procedures that a sponsor and an applicant must follow when an application for charter status has been denied.²²

Currently, when a charter is not renewed or is terminated, the school is dissolved and any unencumbered public funds, except capital outlay funds, from the charter school revert to the district school board. The unencumbered capital outlay funds revert to the DOE for redistribution among eligible schools. The PCB revises this provision so that the unencumbered public funds, except capital outlay funds and federal charter school program grant funds, revert to the sponsor when a charter is not renewed or is terminated and the school is dissolved. Likewise, the unencumbered federal charter school program grant funds would revert to the DOE for redistribution among eligible schools.

Charter School Requirements

Charter school requirements include, but are not limited to, the following: charter schools must be nonsectarian in their programs, admission policies, employment practices, and operations; charter schools must be accountable to their sponsors for performance; charter schools must meet all applicable state and local health, safety, and civil rights requirements; charter schools must provide for an annual financial audit; charter schools must maintain all financial records which constitute their accounting system; charter schools' governing boards must annually adopt and maintain an operating budget, exercise continuing oversight on charter school operations, and annually report progress to their sponsor; and charter schools must provide instruction for at least the number of days required by law.²³

The PCB expands the duties of governing boards relating to academic oversight for charter schools that receive a grade of D or F. The director and a representative of the governing board of a charter school that has received a school grade of D are required to appear before the sponsor at least once a year to present information on each contract component having noted deficiencies. The sponsor is also required to communicate at the meeting the services provided to the school to help address the noted deficiencies. The governing body of a charter school that receive a grade of D for 2 consecutive years or a grade of F is required to submit a school improvement plan to raise student achievement to the sponsor. The governing body is required to appear before the sponsor at least once a year to present information on the corrective strategies that are being implement pursuant to the school improvement plan. The PCB establishes requirements for the school improvement plan and makes available corrective actions that charter school governing boards must follow if there is not an improvement in student performance.

The PCB requires the DOE to offer technical assistance and training to the governing board and establish guidelines for developing, submitting, and approving school improvement plans. Also, the DOE is required to develop a uniform, on-line annual accountability report for charter schools to complete. The governing board of the charter school is required to use this standardize form to report its annual progress to the Commissioner of Education.

²¹ s. 1002.33(8), F.S.

²² see Application for Charter Status on p. 3

²³ S. 1002.33(9), F.S.

Funding of Charter School Student Enrollment

Currently, students enrolled in a charter school are funded in the same way as all other public school students in the school district. Thus, each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in its report of student enrollment that is submitted to the state in October and February of each school year.²⁴ Current law provides that district school boards are required to make every effort to ensure that charter schools receive timely and efficient reimbursement.²⁵

The PCB requires the district school boards to make timely and efficient payments and reimbursements to charter schools and allows the Commissioner of Education to withhold additional funds if districts fail to do so. Further, if a warrant for payment is not issued within 10 working days, rather than the current law requirement of 30 working days, after receipt of funding by the district school board then the district school board is required to pay the charter school the amount of the scheduled disbursement and interest at a rate of 5% per month. This changes the interest rate from 1% to 5% per month.. Also, the interest rate is calculated on a daily basis on the unpaid balance from the expiration of the 10-day period until the warrant is issued. Increasing the interest rate may influence school district to make timely disbursements.

The PCB provides the SBE authority to impose a fine, not to exceed \$10,000, or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, and non-renewal appeals regardless whether the violation effects the fairness of the appeal process or the correctness of the action taken by the district. The PCB provides for procedural requirements for the imposition of such penalties. However, the SBE is required to provide the district with notice of the proposed fine and the opportunity to be heard at a subsequent meeting of the SBE prior to the imposition of the fine or withholding of lottery funds.

Facilities

The PCB clarifies that a start-up charter school, not the current law requirement of a charter school, is required to utilize facilities which comply with the Florida Building Code²⁶ except for the State Requirements for Educational Facilities (SREF). The PCB requires conversion charter schools to comply with SREF if the district and the charter school have entered into a mutual management plan with sufficient funding from the district to comply with SREF.

Current law provides that any facility or a portion of the facility that is used to house an approved charter school is exempt from ad valorem taxes pursuant to s. 196.1983.²⁷ The PCB specifies that the following facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations: libraries, community service facilities, museums, performing arts facilities, theatres, cinemas, churches, community colleges, colleges, and universities.

Current law provides that charter school facilities are exempt from assessments of fees for building permits and licenses and impact fees or service availability fees.²⁸ The PCB provides that charter school facilities are also exempt from payment of fees for occupational licenses.

Any facility or property of the district school board that becomes available because it is surplus, marked for disposal, or otherwise unused is made available to the charter school on the same basis as it is made available to other public schools in the district.²⁹ The PCB provides that the charter school, not

²⁴ s. 1002.33(17), F.S.

²⁵ s. 1002.33(17)(d), F.S.

²⁶ Pursuant to chapter 533.

²⁷ s. 1002.33(18)(c), F.S.

²⁸ Exemption from assessment of fees for building permits except as provided in s. 553.80, F.S.

²⁹ s. 1002.33(18)(f), F.S.

the charter organizer, is required to agree to reasonable maintenance provisions that ensure that the facility is maintained in a manner similar to district school board standards.

Services

Currently, a school district provides the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.³⁰ Administrative fees for the above services that may be charged by the district to a charter school are 5% of the available per student FEFP funds.

The PCB provides for exceptional student education evaluation services in addition to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. The PCB allows school districts to withhold 5% or less of the administrative fee.

Capital Outlay Funding

Current law provides that the year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education is required to allocate the funds among eligible schools.³¹ To be eligible for a funding allocation, a charter school must be in operation for 3 or more years, be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have satisfactory student achievement; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.³²

The PCB provides that for a charter school to be eligible for a funding allocation, a charter school must be one of the following:

- The same school that received capital outlay funding in 2002-2003.
- A charter school that is an expanded feeder pattern of a charter school that received capital outlay funding in 2002-2003.

The PCB provides that the Commissioner of Education is required to allocate and prorate charter school capital outlay funds in the following manner, unless authorized otherwise by the Legislature:

- If an appropriation for charter school capital outlay funds is less than the 2002-2003 appropriation, the funds are required to be prorated among eligible schools, as provided for in the PCB.
- If the appropriation is greater than the 2002-2003 appropriation, the funds are required to be allocated to the eligible public schools as provided for in the PCB and to charter schools that have been in operation for 3 or more years, are an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.

The PCB provides that the charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these schools to the extent that the initial allocation is insufficient to provide one

³⁰ s. 1002.33(20), F.S.

³¹ s. 1013.62, F.S.

³² *Id.*

fifteenth of the cost-per-student station. The PCB identifies the second priority to be all other eligible charter schools.

Current law provides that capital outlay funds may be used by the charter school's governing body for the following purposes: purchase of real property; construction of school facilities; purchase, lease-purchase, or lease of permanent or relocatable school facilities; purchase of vehicles for transportation of students; and renovation, repair, and maintenance of school facilities owned by the charter school or being purchased or lease-purchase by the charter school.³³ The PCB provides that capital outlay funds may also be used for furnishing and for the purchasing of equipment for charter school facilities.

Public Information on Charter Schools

The DOE is required to provide information directly to the public and through sponsors regarding how to form and operate a charter school and how to enroll in a charter school.³⁴ The PCB provides that in addition to the standard application format, the DOE is required to create a standard charter format and standard charter renewal format that are to be used as guidelines by charter school sponsors.

Charter School Review Panel and Legislative Review

The PCB provides that the DOE is required to staff and regularly convene a Charter School Review Panel to review issues, practices, and policies relating to charter schools. The PCB requires a review of the operation of charter schools during the 2010 Regular Session of the Legislature.

Personnel

Beginning July 1, 2007, the PCB provides for educator professional liability coverage for all full-time charter school instructional personnel, requires that educator professional liability coverage be extended at cost to all part-time charter school instructional personnel, and requires that educator professional liability coverage be extended at cost to all administrative personnel.

Student Preference

The PCB eliminates the priority given to transitioning students from military families on admission to charter schools.

Charter Lab Schools

The PCB provides that a charter lab school that attempts to fulfill its requirement to have a representative student population³⁵ and elects to provide student transportation to accomplish this is eligible for transportation funding pursuant to s. 1001.68, F.S.

C. SECTION DIRECTORY:

- Section 1. Amends s. 1002.33, F.S., relating to charter schools; revising the purpose of charter schools; revising charter school application process and sponsor duties; requiring the DOE to provide technical assistance to charter school applicants; revising provisions relating to charter agreement, including nonrenewal or termination of charter; revising charter school requirements, including procedural requirements for charter schools found to be in a state of financial emergency; revising duties of charter school governing boards; providing procedures for charter schools to raise student achievement; revising provisions relating to funding of charter school student enrollment; authorizing zoning

³³ s. 1013.62(2), F.S.

³⁴ s. 1002.33(21), F.S.

³⁵ Pursuant to 1002.32(4), F.S.

and land use designations; revising exemptions; revising provisions relating to services and the administrative fee requirement.

- Section 2. Amends s. 218.39, F.S., adding references relating to charter schools and annual financial audit reports.
- Section 3. Amends s. 218.50, F.S., revising the short title of sections 218.50-218.504 to include charter schools.
- Section 4. Amends s. 218.501, F.S., adding a charter school reference.
- Section 5. Amends s. 218.503, F.S., adding references relating to charter schools and the determination of financial emergency.
- Section 6. Amends s. 218.504, F.S., adding references relating to charter schools and the cessation of state action.
- Section 7. Amends s. 11.45, F.S., conforming provisions relating to charter schools.
- Section 8. Amends s. 166.271, F.S., correcting cross references.
- Section 9. Amends s. 1002.32, F.S., providing that charter lab schools are eligible for transportation funding.
- Section 10. Amends s. 1003.05, F.S., removing charter school reference from assistance to transitioning students from military families.
- Section 11. Amends s. 1012.74, F.S., requiring educator professional liability insurance to cover charter school personnel.
- Section 12. Amends s. 1013.62, F.S., revising provisions related to capital outlay funding.
- Section 14. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If Charter Lab Schools become eligible for student transportation funds, the proportion of funds allocated to school districts will be decreased.

The Department of Education is required to staff the Charter School Review Panel and to create a uniform on-line accountability report for charter schools, and a standard charter format and charter renewal format. The estimated administrative costs of these requirements are indeterminate at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

This bill does not create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

PCB CI 06-03

2006

1 A bill to be entitled

2 An act relating to charter schools; amending s. 1002.33,
3 F.S.; revising charter school purposes; modifying
4 provisions relating to duties of sponsors, the application
5 process, denial of an application, and review of appeals;
6 requiring the Department of Education to provide technical
7 assistance to charter school applicants; providing
8 procedures when a state of financial emergency exists;
9 revising provisions relating to charter agreement, term,
10 and renewal; revising nonrenewal and termination
11 provisions, including procedures for immediate
12 termination; revising provisions relating to the reversion
13 of funds; revising duties of a charter school governing
14 body relating to audits; requiring the department to
15 develop a uniform accountability report; providing
16 procedures with respect to charter schools with
17 deficiencies; requiring a school improvement plan to raise
18 student achievement; providing for probation and
19 corrective actions; revising provisions relating to
20 payment and reimbursement to a charter school by a school
21 district; authorizing the State Board of Education to
22 impose a fine on or withhold lottery funds from a school
23 district for certain violations; requiring conversion
24 charter schools to comply with certain facility
25 requirements under specific situations; authorizing
26 certain zoning and land use designations for certain
27 charter school facilities; revising exemption from
28 assessment of fees; providing for additional services to
29 charter schools and revising administrative fee

Page 1 of 66

PCB CI 06-03 -- Charter Schools

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

PCB CI 06-03

2006

requirements; requiring the department to develop a standard format for applications, charters, and charter renewals; requiring legislative review of charter schools in 2010; amending s. 218.39, F.S.; requiring the governing body of a charter school to be notified of certain deteriorating financial conditions; amending s. 218.50, F.S.; modifying a short title; amending s. 218.501, F.S.; including charter schools in the statement of purpose relating to financial management; amending s. 218.503, F.S.; providing for charter schools to be subject to provisions governing financial emergencies; providing procedures; amending s. 218.504, F.S.; providing for cessation of state action related to a state of financial emergency; amending s. 11.45, F.S.; conforming provisions; amending s. 166.271, F.S.; correcting cross-references; amending s. 1002.32, F.S.; providing that a charter lab school that elects to provide student transportation is eligible for funding for that purpose; amending s. 1003.05, F.S.; modifying the list of special academic programs for transitioning students from military families; amending s. 1012.74, F.S.; providing that educator professional liability insurance shall cover charter school personnel; amending s. 1013.62, F.S.; revising provisions relating to eligibility for and allocation of charter school capital outlay funding; revising purposes for which capital outlay funds may be used; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

PCB CI 06-03

2006

Section 1. Section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.--

(1) AUTHORIZATION.--Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A public school may not use the term charter in its name unless it has been approved under this section.

(2) GUIDING PRINCIPLES; PURPOSE.--

(a) Charter schools in Florida shall be guided by the following principles:

1. Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.

2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.

3. Provide parents with sufficient information on whether their child is reading at grade level and whether the child gains at least a year's worth of learning for every year spent in the charter school.

(b) Charter schools shall fulfill the following purposes:

1. Improve student learning and academic achievement.

2. Increase learning opportunities for all students, with special emphasis on low-performing students and reading.

~~3. Create new professional opportunities for teachers, including ownership of the learning program at the school site.~~

3.4. Encourage the use of innovative learning methods.

PCB CI 06-03

2006

5. ~~Require the measurement of learning outcomes.~~

(c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.

2. Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.

3. Expand the capacity of the public school system.

4. Mitigate the educational impact created by the development of new residential dwelling units.

5. Create new professional opportunities for teachers, including ownership of the learning program at the school site.

6. Require the measurement of learning outcomes.

(3) APPLICATION FOR CHARTER STATUS.--

(a) An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.

(b) An application for a conversion charter school shall be made by the district school board, the principal, teachers, parents, and/or the school advisory council at an existing public school that has been in operation for at least 2 years prior to the application to convert. ~~, including~~ A public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to

PCB CI 06-03

2006

117 | vote participate in the ballot process, according to rules
 118 | adopted by the State Board of Education. A district school board
 119 | denying an application for a conversion charter school shall
 120 | provide notice of denial to the applicants in writing within 10
 121 | ~~30~~ days after the meeting at which the district school board
 122 | denied the application. The notice must articulate in writing
 123 | ~~specify~~ the specific ~~exact~~ reasons for denial and must provide
 124 | documentation supporting those reasons. A private school,
 125 | parochial school, or home education program shall not be eligible
 126 | for charter school status.

127 | (4) UNLAWFUL REPRISAL.--

128 | (a) No district school board, or district school board
 129 | employee who has control over personnel actions, shall take
 130 | unlawful reprisal against another district school board employee
 131 | because that employee is either directly or indirectly involved
 132 | with an application to establish a charter school. As used in
 133 | this subsection, the term "unlawful reprisal" means an action
 134 | taken by a district school board or a school system employee
 135 | against an employee who is directly or indirectly involved in a
 136 | lawful application to establish a charter school, which occurs as
 137 | a direct result of that involvement, and which results in one or
 138 | more of the following: disciplinary or corrective action; adverse
 139 | transfer or reassignment, whether temporary or permanent;
 140 | suspension, demotion, or dismissal; an unfavorable performance
 141 | evaluation; a reduction in pay, benefits, or rewards; elimination
 142 | of the employee's position absent of a reduction in workforce as
 143 | a result of lack of moneys or work; or other adverse significant
 144 | changes in duties or responsibilities that are inconsistent with
 145 | the employee's salary or employment classification. The following

PCB CI 06-03

2006

146 procedures shall apply to an alleged unlawful reprisal that
147 occurs as a consequence of an employee's direct or indirect
148 involvement with an application to establish a charter school:

149 1. Within 60 days after the date upon which a reprisal
150 prohibited by this subsection is alleged to have occurred, an
151 employee may file a complaint with the Department of Education.

152 2. Within 3 working days after receiving a complaint under
153 this section, the Department of Education shall acknowledge
154 receipt of the complaint and provide copies of the complaint and
155 any other relevant preliminary information available to each of
156 the other parties named in the complaint, which parties shall
157 each acknowledge receipt of such copies to the complainant.

158 3. If the Department of Education determines that the
159 complaint demonstrates reasonable cause to suspect that an
160 unlawful reprisal has occurred, the Department of Education shall
161 conduct an investigation to produce a fact-finding report.

162 4. Within 90 days after receiving the complaint, the
163 Department of Education shall provide the district school
164 superintendent of the complainant's district and the complainant
165 with a fact-finding report that may include recommendations to
166 the parties or a proposed resolution of the complaint. The fact-
167 finding report shall be presumed admissible in any subsequent or
168 related administrative or judicial review.

169 5. If the Department of Education determines that
170 reasonable grounds exist to believe that an unlawful reprisal has
171 occurred, is occurring, or is to be taken, and is unable to
172 conciliate a complaint within 60 days after receipt of the fact-
173 finding report, the Department of Education shall terminate the
174 investigation. Upon termination of any investigation, the

PCB CI 06-03

2006

175 Department of Education shall notify the complainant and the
176 district school superintendent of the termination of the
177 investigation, providing a summary of relevant facts found during
178 the investigation and the reasons for terminating the
179 investigation. A written statement under this paragraph is
180 presumed admissible as evidence in any judicial or administrative
181 proceeding.

182 6. The Department of Education shall either contract with
183 the Division of Administrative Hearings under s. 120.65, or
184 otherwise provide for a complaint for which the Department of
185 Education determines reasonable grounds exist to believe that an
186 unlawful reprisal has occurred, is occurring, or is to be taken,
187 and is unable to conciliate, to be heard by a panel of impartial
188 persons. Upon hearing the complaint, the panel shall make
189 findings of fact and conclusions of law for a final decision by
190 the Department of Education.

191
192 It shall be an affirmative defense to any action brought pursuant
193 to this section that the adverse action was predicated upon
194 grounds other than, and would have been taken absent, the
195 employee's exercise of rights protected by this section.

196 (b) In any action brought under this section for which it
197 is determined reasonable grounds exist to believe that an
198 unlawful reprisal has occurred, is occurring, or is to be taken,
199 the relief shall include the following:

200 1. Reinstatement of the employee to the same position held
201 before the unlawful reprisal was commenced, or to an equivalent
202 position, or payment of reasonable front pay as alternative
203 relief.

PCB CI 06-03

2006

204 2. Reinstatement of the employee's full fringe benefits and
205 seniority rights, as appropriate.

206 3. Compensation, if appropriate, for lost wages, benefits,
207 or other lost remuneration caused by the unlawful reprisal.

208 4. Payment of reasonable costs, including attorney's fees,
209 to a substantially prevailing employee, or to the prevailing
210 employer if the employee filed a frivolous action in bad faith.

211 5. Issuance of an injunction, if appropriate, by a court of
212 competent jurisdiction.

213 6. Temporary reinstatement to the employee's former
214 position or to an equivalent position, pending the final outcome
215 of the complaint, if it is determined that the action was not
216 made in bad faith or for a wrongful purpose, and did not occur
217 after a district school board's initiation of a personnel action
218 against the employee that includes documentation of the
219 employee's violation of a disciplinary standard or performance
220 deficiency.

221 (5) SPONSOR; DUTIES.--

222 (a) Sponsoring entities.--

223 1. A district school board may sponsor a charter school in
224 the county over which the district school board has jurisdiction.

225 2. A state university may grant a charter to a lab school
226 created under s. 1002.32 and shall be considered to be the
227 school's sponsor. Such school shall be considered a charter lab
228 school.

229 (b) Sponsor duties.--

230 1. The sponsor shall monitor and review the charter school
231 in its progress toward the goals established in the charter.

232 2. The sponsor shall monitor the revenues and expenditures

PCB CI 06-03

2006

of the charter school.

3. The sponsor may approve a charter for a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working funds ~~capital~~.

4. The sponsor's policies shall not apply to a charter school unless mutually agreed to by both the sponsor and the charter school.

5. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

6. The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

7. The sponsor shall not impose additional reporting requirements on a charter school without providing reasonable and specific justification in writing to the charter school.

A community college may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. District school boards shall cooperate with and assist the community college on the charter application. Community college applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time

PCB CI 06-03

2006

262 during the year. Community colleges shall not report FTE for any
263 students who receive FTE funding through the Florida Education
264 Finance Program.

265 (6) APPLICATION PROCESS AND REVIEW.--Charter school
266 ~~Beginning September 1, 2003,~~ applications are subject to the
267 following requirements:

268 (a) A person or entity wishing to open a charter school
269 shall prepare an application that:

270 1. Demonstrates how the school will use the guiding
271 principles and meet the statutorily defined purpose of a charter
272 school.

273 2. Provides a detailed curriculum plan that illustrates how
274 students will be provided services to attain the Sunshine State
275 Standards.

276 3. Contains goals and objectives for improving student
277 learning and measuring that improvement. These goals and
278 objectives must indicate how much academic improvement students
279 are expected to show each year, how success will be evaluated,
280 and the specific results to be attained through instruction.

281 4. Describes the reading curriculum and differentiated
282 strategies that will be used for students reading at grade level
283 or higher and a separate curriculum and strategies for students
284 who are reading below grade level. A sponsor shall deny a charter
285 if the school does not propose a reading curriculum that is
286 consistent with effective teaching strategies that are grounded
287 in scientifically based reading research.

288 5. Contains an annual financial plan for each year
289 requested by the charter for operation of the school for up to 5
290 years. This plan must contain anticipated fund balances based on

PCB CI 06-03

2006

revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

(b) A district school board shall receive and review all applications for a charter school. Beginning with the 2007-2008 school year, a district school board shall receive and consider charter school applications received on or before August ~~September~~ 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the district school board. A district school board may receive applications later than this date if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of an application upon the promise of future payment of any kind.

1. In order to facilitate an accurate budget projection process, a district school board shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a district school board or other sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income,

PCB CI 06-03

2006

320 including income derived from projected student enrollments and
321 from community support, and an expense projection that includes
322 full accounting of the costs of operation, including start-up
323 costs.

324 3. A district school board shall by a majority vote approve
325 or deny an application no later than 60 calendar days after the
326 application is received, unless the district school board and the
327 applicant mutually agree in writing to temporarily postpone the
328 vote to a specific date, at which time the district school board
329 shall by a majority vote approve or deny the application. If the
330 district school board fails to act on the application, an
331 applicant may appeal to the State Board of Education as provided
332 in paragraph (c). If an application is denied, the district
333 school board shall, within 10 calendar days, articulate in
334 writing the specific reasons ~~for based upon good cause supporting~~
335 its denial of the charter application and shall provide the
336 letter of denial and supporting documentation to the applicant
337 and to the Department of Education supporting those reasons.

338 4. For budget projection purposes, the district school
339 board or other sponsor shall report to the Department of
340 Education the approval or denial of a charter application within
341 10 calendar days after such approval or denial. In the event of
342 approval, the report to the Department of Education shall include
343 the final projected FTE for the approved charter school.

344 5. Upon approval of a charter application, the initial
345 startup shall commence with the beginning of the public school
346 calendar for the district in which the charter is granted unless
347 the sponsor ~~district school board~~ allows a waiver of this
348 provision for good cause.

PCB CI 06-03

2006

349 (c) An applicant may appeal any denial of that applicant's
350 application or failure to act on an application to the State
351 Board of Education no later than 30 calendar days after receipt
352 of the district school board's decision or failure to act and
353 shall notify the district school board of its appeal. Any
354 response of the district school board shall be submitted to the
355 State Board of Education within 30 calendar days after
356 notification of the appeal. Upon receipt of notification from the
357 State Board of Education that a charter school applicant is
358 filing an appeal, the Commissioner of Education shall convene a
359 meeting of the Charter School Appeal Commission to study and make
360 recommendations to the State Board of Education regarding its
361 pending decision about the appeal. The commission shall forward
362 its recommendation to the state board no later than 7 calendar
363 days prior to the date on which the appeal is to be heard. The
364 State Board of Education shall by majority vote accept or reject
365 the decision of the district school board no later than 90
366 calendar days after an appeal is filed in accordance with State
367 Board of Education rule. The Charter School Appeal Commission may
368 reject an appeal submission for failure to comply with procedural
369 rules governing the appeals process. The rejection shall describe
370 the submission errors. The appellant may have up to 15 calendar
371 days from notice of rejection to resubmit an appeal that meets
372 requirements of State Board of Education rule. An application for
373 appeal submitted subsequent to such rejection shall be considered
374 timely if the original appeal was filed within 30 calendar days
375 after receipt of notice of the specific reasons for the district
376 school board's denial of the charter application. The State Board
377 of Education shall remand the application to the district school

PCB CI 06-03

2006

board with its written decision that the district school board approve or deny the application. The district school board shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(d) The district school board shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors, ~~or whose disputes over contract negotiations have not been resolved through mediation.~~

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School

PCB CI 06-03

2006

407 Appeal Commission is not subject to the provisions of the
408 Administrative Procedure Act, chapter 120.

409 3. The commissioner shall appoint the members of the
410 Charter School Appeal Commission. Members shall serve without
411 compensation but may be reimbursed for travel and per diem
412 expenses in conjunction with their service. One-half of the
413 members must represent currently operating charter schools, and
414 one-half of the members must represent school districts. The
415 commissioner or a named designee shall chair the Charter School
416 Appeal Commission.

417 4. The chair shall convene meetings of the commission and
418 shall ensure that the written recommendations are completed and
419 forwarded in a timely manner. In cases where the commission
420 cannot reach a decision, the chair shall make the written
421 recommendation with justification, noting that the decision was
422 rendered by the chair.

423 5. Commission members shall thoroughly review the materials
424 presented to them from the appellant and the sponsor. The
425 commission may request information to clarify the documentation
426 presented to it. In the course of its review, the commission may
427 facilitate the postponement of an appeal in those cases where
428 additional time and communication may negate the need for a
429 formal appeal and both parties agree, in writing, to postpone the
430 appeal to the State Board of Education. A new date certain for
431 the appeal shall then be set based upon the rules and procedures
432 of the State Board of Education. Commission members shall provide
433 a written recommendation to the state board as to whether the
434 appeal should be upheld or denied. A fact-based justification for
435 the recommendation must be included. The chair must ensure that

PCB CI 06-03

2006

the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f) The Department of Education shall offer or arrange for training and technical assistance to charter school applicants in developing business plans and estimating costs and income. This assistance shall address estimating startup costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school will be eligible to receive. The department ~~of Education~~ may provide other technical assistance to an applicant upon written request.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The applicant and sponsor shall have 3 6 months in which to mutually agree to the provisions of the charter. The proposed charter shall be provided to the charter school at least 7 calendar days prior to the date on which the charter is scheduled to be heard by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter

PCB CI 06-03

2006

465 application and for any dispute relating to the approved charter,
466 except disputes regarding charter school application denials. If
467 the Commissioner of Education determines that the dispute cannot
468 be settled through mediation, the dispute may be appealed to an
469 administrative law judge appointed by the Division of
470 Administrative Hearings. The administrative law judge may rule on
471 issues of equitable treatment of the charter school as a public
472 school, whether proposed provisions of the charter violate the
473 intended flexibility granted charter schools by statute, or on
474 any other matter regarding this section except a charter school
475 application denial, a charter termination, or a charter
476 nonrenewal and shall award the prevailing party reasonable
477 attorney's fees and costs incurred to be paid by the losing
478 party. The costs of the administrative hearing shall be paid by
479 the party whom the administrative law judge rules against.

480 (7) CHARTER.--The major issues involving the operation of a
481 charter school shall be considered in advance and written into
482 the charter. The charter shall be signed by the governing body of
483 the charter school and the sponsor, following a public hearing to
484 ensure community input.

485 (a) The charter shall address, and criteria for approval of
486 the charter shall be based on:

487 1. The school's mission, the students to be served, and the
488 ages and grades to be included.

489 2. The focus of the curriculum, the instructional methods
490 to be used, any distinctive instructional techniques to be
491 employed, and identification and acquisition of appropriate
492 technologies needed to improve educational and administrative
493 performance which include a means for promoting safe, ethical,

PCB CI 06-03

2006

494 and appropriate uses of technology which comply with legal and
495 professional standards. The charter shall ensure that reading is
496 a primary focus of the curriculum and that resources are provided
497 to identify and provide specialized instruction for students who
498 are reading below grade level. The curriculum and instructional
499 strategies for reading must be consistent with the Sunshine State
500 Standards and grounded in scientifically based reading research.

501 3. The current incoming baseline standard of student
502 academic achievement, the outcomes to be achieved, and the method
503 of measurement that will be used. The criteria listed in this
504 subparagraph shall include a detailed description for each of the
505 following:

506 a. How the baseline student academic achievement levels and
507 prior rates of academic progress will be established.

508 b. How these baseline rates will be compared to rates of
509 academic progress achieved by these same students while attending
510 the charter school.

511 c. To the extent possible, how these rates of progress will
512 be evaluated and compared with rates of progress of other closely
513 comparable student populations.

514
515 The district school board is required to provide academic student
516 performance data to charter schools for each of their students
517 coming from the district school system, as well as rates of
518 academic progress of comparable student populations in the
519 district school system.

520 4. The methods used to identify the educational strengths
521 and needs of students and how well educational goals and
522 performance standards are met by students attending the charter

PCB CI 06-03

2006

523 school. Included in the methods is a means for the charter school
524 to ensure accountability to its constituents by analyzing student
525 performance data and by evaluating the effectiveness and
526 efficiency of its major educational programs. Students in charter
527 schools shall, at a minimum, participate in the statewide
528 assessment program created under s. 1008.22.

529 5. In secondary charter schools, a method for determining
530 that a student has satisfied the requirements for graduation in
531 s. 1003.43.

532 6. A method for resolving conflicts between the governing
533 body of the charter school and the sponsor.

534 7. The admissions procedures and dismissal procedures,
535 including the school's code of student conduct.

536 8. The ways by which the school will achieve a
537 racial/ethnic balance reflective of the community it serves or
538 within the racial/ethnic range of other public schools in the
539 same school district.

540 9. The financial and administrative management of the
541 school, including a reasonable demonstration of the professional
542 experience or competence of those individuals or organizations
543 applying to operate the charter school or those hired or retained
544 to perform such professional services and the description of
545 clearly delineated responsibilities and the policies and
546 practices needed to effectively manage the charter school. A
547 description of internal audit procedures and establishment of
548 controls to ensure that financial resources are properly managed
549 must be included. Both public sector and private sector
550 professional experience shall be equally valid in such a
551 consideration.

PCB CI 06-03

2006

552 10. The asset and liability projections required in the
553 application which are incorporated into the charter and which
554 shall be compared with information provided in the annual report
555 of the charter school. The charter shall ensure that, if a
556 charter school internal audit or annual financial audit reveals a
557 state of financial emergency as defined in s. 218.503 or deficit
558 financial position, the auditors are required to notify the
559 charter school governing board, the sponsor, and the Department
560 of Education. The internal auditor shall report such findings in
561 the form of an exit interview to the principal or the principal
562 administrator of the charter school and the chair of the
563 governing board within 7 working days after finding the state of
564 financial emergency or deficit position. A final report shall be
565 provided to the entire governing board, the sponsor, and the
566 Department of Education within 14 working days after the exit
567 interview. When a charter school is in a state of financial
568 emergency, the charter school shall file a detailed financial
569 recovery plan with the sponsor. The department shall establish
570 guidelines, with involvement from both sponsors and charter
571 schools, for developing such plans.

572 11. A description of procedures that identify various risks
573 and provide for a comprehensive approach to reduce the impact of
574 losses; plans to ensure the safety and security of students and
575 staff; plans to identify, minimize, and protect others from
576 violent or disruptive student behavior; and the manner in which
577 the school will be insured, including whether or not the school
578 will be required to have liability insurance, and, if so, the
579 terms and conditions thereof and the amounts of coverage.

580 12. The term of the charter which shall provide for

PCB CI 06-03

2006

581 cancellation of the charter if insufficient progress has been
582 made in attaining the student achievement objectives of the
583 charter and if it is not likely that such objectives can be
584 achieved before expiration of the charter. The initial term of a
585 charter shall be for ~~3, 4, or~~ 5 years. In order to facilitate
586 access to long-term financial resources for charter school
587 construction, charter schools that are operated by a municipality
588 or other public entity as provided by law are eligible for up to
589 a 15-year charter, subject to approval by the district school
590 board. A charter lab school is eligible for a charter for a term
591 of up to 15 years. In addition, to facilitate access to long-term
592 financial resources for charter school construction, charter
593 schools that are operated by a private, not-for-profit, s.
594 501(c)(3) status corporation are eligible for up to a 15-year ~~10-~~
595 ~~year~~ charter, subject to approval by the district school board.
596 Such long-term charters remain subject to annual review and may
597 be terminated during the term of the charter, but only ~~for~~
598 ~~specific good cause~~ according to the provisions set forth in
599 subsection (8).

600 13. The facilities to be used and their location.

601 14. The qualifications to be required of the teachers and
602 the potential strategies used to recruit, hire, train, and retain
603 qualified staff to achieve best value.

604 15. The governance structure of the school, including the
605 status of the charter school as a public or private employer as
606 required in paragraph (12)(i):

607 16. A timetable for implementing the charter which
608 addresses the implementation of each element thereof and the date
609 by which the charter shall be awarded in order to meet this

PCB CI 06-03

2006

timetable.

17. In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

(b)1. A charter may be renewed ~~every 5 school years,~~ provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 2 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school that has received a school grade of "A" or "B" pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).

PCB CI 06-03

2006

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school governing board and the approval of both parties to the agreement.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

(a) ~~At the end of the term of a charter,~~ The sponsor may choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Determination by the sponsor that the health, safety, or welfare of the students is threatened ~~Other good cause shown.~~

~~(b) During the term of a charter, the sponsor may terminate the charter for any of the grounds listed in paragraph (a).~~

(b)(c) At least 90 days prior to renewing or terminating a charter, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor. The sponsor shall conduct the informal hearing within 30 calendar days after receiving a written request. ~~The charter school's governing body may, within 14 calendar days after receiving the sponsor's decision to~~

PCB CI 06-03

2006

668 ~~terminate or refuse to renew the charter, appeal the decision~~
669 ~~pursuant to the procedure established in subsection (6).~~

670 (c) If a charter is not renewed or is terminated pursuant
671 to paragraph (b), the sponsor shall, within 10 calendar days,
672 articulate in writing the specific reasons for its nonrenewal or
673 termination of the charter and must provide the letter of
674 nonrenewal or termination and documentation supporting the
675 reasons to the charter school governing body, the charter school
676 principal, and the Department of Education. The charter school's
677 governing body may, within 30 calendar days after receiving the
678 sponsor's final written decision to refuse to renew the charter
679 or terminate, appeal the decision pursuant to the procedure
680 established in subsection (6).

681 (d) A charter may be terminated immediately if the sponsor
682 determines that good cause has been shown or if the health,
683 safety, or welfare of the students is threatened. The sponsor
684 shall notify in writing the charter school's governing board, the
685 charter school principal, and the department if a charter is
686 immediately terminated. The sponsor shall clearly identify the
687 specific issues that resulted in the immediate termination and
688 provide evidence of prior notification of issues resulting in the
689 immediate termination when appropriate. The school district in
690 which the charter school is located shall assume operation of the
691 school under these circumstances. The charter school's governing
692 board may, within 30 ~~14~~ days after receiving the sponsor's
693 decision to terminate the charter, appeal the decision pursuant
694 to the procedure established in subsection (6).

695 (e) When a charter is not renewed or is terminated, the
696 school shall be dissolved under the provisions of law under which

PCB CI 06-03

2006

the school was organized, and any unencumbered public funds, except for capital outlay funds and federal charter school program grant funds, from the charter school shall revert to the sponsor ~~district school board~~. Capital outlay funds provided pursuant to s. 1013.62 and federal charter school program grant funds that are unencumbered shall revert to the department to be redistributed among eligible charter schools. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(f) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The district may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in,

PCB CI 06-03

2006

another public school. Normal application deadlines shall be disregarded under such circumstances.

(9) CHARTER SCHOOL REQUIREMENTS.--

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (10).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the antidiscrimination provisions of s. 1000.05.

(g) A charter school shall provide for an annual financial audit in accordance with s. 218.39. Financial audits that yield a state of financial emergency as defined in s. 218.503 and are conducted by a certified public accountant or auditor in accordance with s. 218.39 shall be provided to the governing board of the charter school within 7 working days after finding that a state of financial emergency exists. When a charter school is found to be in a state of financial emergency by a certified public accountant or auditor, the charter school must file a detailed financial recovery plan with the sponsor within 30 days after receipt of the audit.

(h) No organization shall hold more than 15 charters

PCB CI 06-03

2006

755 statewide.

756 (i) In order to provide financial information that is
757 comparable to that reported for other public schools, charter
758 schools are to maintain all financial records which constitute
759 their accounting system:

760 1. In accordance with the accounts and codes prescribed in
761 the most recent issuance of the publication titled "Financial and
762 Program Cost Accounting and Reporting for Florida Schools"; or

763 2. At the discretion of the charter school governing board,
764 a charter school may elect to follow generally accepted
765 accounting standards for not-for-profit organizations, but must
766 reformat this information for reporting according to this
767 paragraph.

768
769 Charter schools ~~are to~~ provide annual financial report and
770 program cost report information in the state-required formats for
771 inclusion in district reporting in compliance with s. 1011.60(1).
772 Charter schools that are operated by a municipality or are a
773 component unit of a parent nonprofit organization may use the
774 accounting system of the municipality or the parent but must
775 reformat this information for reporting according to this
776 paragraph.

777 (j) The governing board of the charter school shall
778 annually adopt and maintain an operating budget.

779 (k) The governing body of the charter school shall exercise
780 continuing oversight over charter school operations.

781 (l) The governing body of the charter school shall be
782 responsible for:

783 1. Ensuring that the charter school has retained the

PCB CI 06-03

2006

services of a certified public accountant or auditor for the annual financial audit, pursuant to paragraph (g), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3. Monitoring a financial recovery plan in order to ensure compliance.

(m) ~~(1)~~ The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, on-line annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that is duplicative and already in the possession of the department. The Department of Education shall include in its compilation a notation if a school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the

PCB CI 06-03

2006

813 charter. The charter school shall identify reasons for any
814 difference between projected and actual student performance.

815 2. Financial status of the charter school which must
816 include revenues and expenditures at a level of detail that
817 allows for analysis of the ability to meet financial obligations
818 and timely repayment of debt.

819 3. Documentation of the facilities in current use and any
820 planned facilities for use by the charter school for instruction
821 of students, administrative functions, or investment purposes.

822 4. Descriptive information about the charter school's
823 personnel, including salary and benefit levels of charter school
824 employees, the proportion of instructional personnel who hold
825 professional or temporary certificates, and the proportion of
826 instructional personnel teaching in-field or out-of-field.

827 ~~(n)(m)~~ A charter school shall not levy taxes or issue bonds
828 secured by tax revenues.

829 ~~(o)(n)~~ A charter school shall provide instruction for at
830 least the number of days required by law for other public
831 schools, and may provide instruction for additional days.

832 (p) The director and a representative of the governing body
833 of a charter school that has received a school grade of "D" under
834 s. 1008.34(2) shall appear before the sponsor or the sponsor's
835 staff at least once a year to present information concerning each
836 contract component having noted deficiencies. The sponsor shall
837 communicate at the meeting, and in writing to the director, the
838 services provided to the school to help the school address its
839 deficiencies.

840 (q) Upon notification that a charter school receives a
841 school grade of "D" for 2 consecutive years or a grade of "F"

PCB CI 06-03

2006

under s. 1008.34(2), the charter school sponsor or the sponsor's staff shall require the director and a representative of the governing body to submit a school improvement plan to raise student achievement for approval by the sponsor and to implement the plan. The sponsor has the authority to approve a school improvement plan that the charter school will implement in the following school year. The Department of Education shall offer technical assistance and training to the charter school and its governing body and establish guidelines for developing, submitting, and approving such plans.

1. If the charter school fails to improve its student performance from the year immediately prior to the implementation of the school improvement plan, the sponsor shall place the charter school on probation and shall require the charter school governing body to take one of the following corrective actions:

a. Contract for the educational services of the charter school;

b. Reorganize the school at the end of the school year under a new director or principal who is authorized to hire new staff and implement a plan that addresses the causes of inadequate progress; or

c. Reconstitute the charter school.

2. A charter school that is placed on probation shall continue the corrective actions required under subparagraph 1. until the charter school improves its student performance from the year prior to the implementation of the school improvement plan.

3. Notwithstanding any provision of this paragraph, the sponsor may terminate the charter at any time pursuant to the

PCB CI 06-03

2006

871 provisions of subsection (8).

872 (r) The director and a representative of the governing body
 873 of a graded charter school that has submitted a school
 874 improvement plan or has been placed on probation under paragraph
 875 (q) shall appear before the sponsor or the sponsor's staff at
 876 least once a year to present information regarding the corrective
 877 strategies that are being implemented by the school pursuant to
 878 the school improvement plan. The sponsor shall communicate at the
 879 meeting, and in writing to the director, the services provided to
 880 the school to help the school address its deficiencies.

881 (10) ELIGIBLE STUDENTS.--

882 (a) A charter school shall be open to any student covered
 883 in an interdistrict agreement or residing in the school district
 884 in which the charter school is located; however, in the case of a
 885 charter lab school, the charter lab school shall be open to any
 886 student eligible to attend the lab school as provided in s.
 887 1002.32 or who resides in the school district in which the
 888 charter lab school is located. Any eligible student shall be
 889 allowed interdistrict transfer to attend a charter school when
 890 based on good cause.

891 (b) The charter school shall enroll an eligible student who
 892 submits a timely application, unless the number of applications
 893 exceeds the capacity of a program, class, grade level, or
 894 building. In such case, all applicants shall have an equal chance
 895 of being admitted through a random selection process.

896 (c) When a public school converts to charter status,
 897 enrollment preference shall be given to students who would have
 898 otherwise attended that public school.

899 (d) A charter school may give enrollment preference to the

PCB CI 06-03

2006

900 following student populations:

901 1. Students who are siblings of a student enrolled in the
902 charter school.

903 2. Students who are the children of a member of the
904 governing board of the charter school.

905 3. Students who are the children of an employee of the
906 charter school.

907 (e) A charter school may limit the enrollment process only
908 to target the following student populations:

909 1. Students within specific age groups or grade levels.

910 2. Students considered at risk of dropping out of school or
911 academic failure. Such students shall include exceptional
912 education students.

913 3. Students enrolling in a charter school-in-the-workplace
914 or charter school-in-a-municipality established pursuant to
915 subsection (15).

916 4. Students residing within a reasonable distance of the
917 charter school, as described in paragraph (20)(c). Such students
918 shall be subject to a random lottery and to the racial/ethnic
919 balance provisions described in subparagraph (7)(a)8. or any
920 federal provisions that require a school to achieve a
921 racial/ethnic balance reflective of the community it serves or
922 within the racial/ethnic range of other public schools in the
923 same school district.

924 5. Students who meet reasonable academic, artistic, or
925 other eligibility standards established by the charter school and
926 included in the charter school application and charter or, in the
927 case of existing charter schools, standards that are consistent
928 with the school's mission and purpose. Such standards shall be in

PCB CI 06-03

2006

accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.

6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

(f) Students with handicapping conditions and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

(g) A student may withdraw from a charter school at any time and enroll in another public school as determined by district school board rule.

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection.

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.--A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend pursuant to s. 1006.15(3)(d).

(12) EMPLOYEES OF CHARTER SCHOOLS.--

(a) A charter school shall select its own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter

PCB CI 06-03

2006

958 school.

959 (c) The employees of a conversion charter school shall
960 remain public employees for all purposes, unless such employees
961 choose not to do so.

962 (d) The teachers at a charter school may choose to be part
963 of a professional group that subcontracts with the charter school
964 to operate the instructional program under the auspices of a
965 partnership or cooperative that they collectively own. Under this
966 arrangement, the teachers would not be public employees.

967 (e) Employees of a school district may take leave to accept
968 employment in a charter school upon the approval of the district
969 school board. While employed by the charter school and on leave
970 that is approved by the district school board, the employee may
971 retain seniority accrued in that school district and may continue
972 to be covered by the benefit programs of that school district, if
973 the charter school and the district school board agree to this
974 arrangement and its financing. School districts shall not require
975 resignations of teachers desiring to teach in a charter school.
976 This paragraph shall not prohibit a district school board from
977 approving alternative leave arrangements consistent with chapter
978 1012.

979 (f) Teachers employed by or under contract to a charter
980 school shall be certified as required by chapter 1012. A charter
981 school governing board may employ or contract with skilled
982 selected noncertified personnel to provide instructional services
983 or to assist instructional staff members as education
984 paraprofessionals in the same manner as defined in chapter 1012,
985 and as provided by State Board of Education rule for charter
986 school governing boards. A charter school may not knowingly

PCB CI 06-03

2006

987 employ an individual to provide instructional services or to
988 serve as an education paraprofessional if the individual's
989 certification or licensure as an educator is suspended or revoked
990 by this or any other state. A charter school may not knowingly
991 employ an individual who has resigned from a school district in
992 lieu of disciplinary action with respect to child welfare or
993 safety, or who has been dismissed for just cause by any school
994 district with respect to child welfare or safety. The
995 qualifications of teachers shall be disclosed to parents.

996 (g) A charter school shall employ or contract with
997 employees who have undergone background screening as provided in
998 s. 1012.32. Members of the governing board of the charter school
999 shall also undergo background screening in a manner similar to
1000 that provided in s. 1012.32.

1001 (h) For the purposes of tort liability, the governing body
1002 and employees of a charter school shall be governed by s. 768.28.

1003 (i) A charter school shall organize as, or be operated by,
1004 a nonprofit organization. A charter school may be operated by a
1005 municipality or other public entity as provided for by law. As
1006 such, the charter school may be either a private or a public
1007 employer. As a public employer, a charter school may participate
1008 in the Florida Retirement System upon application and approval as
1009 a "covered group" under s. 121.021(34). If a charter school
1010 participates in the Florida Retirement System, the charter school
1011 employees shall be compulsory members of the Florida Retirement
1012 System. As either a private or a public employer, a charter
1013 school may contract for services with an individual or group of
1014 individuals who are organized as a partnership or a cooperative.
1015 Individuals or groups of individuals who contract their services

PCB CI 06-03

2006

1016 to the charter school are not public employees.

1017 (13) CHARTER SCHOOL COOPERATIVES.--Charter schools may
1018 enter into cooperative agreements to form charter school
1019 cooperative organizations that may provide the following
1020 services: charter school planning and development, direct
1021 instructional services, and contracts with charter school
1022 governing boards to provide personnel administrative services,
1023 payroll services, human resource management, evaluation and
1024 assessment services, teacher preparation, and professional
1025 development.

1026 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS; INDEMNIFICATION
1027 OF THE STATE AND SCHOOL DISTRICT; CREDIT OR TAXING POWER NOT TO
1028 BE PLEDGED.--Any arrangement entered into to borrow or otherwise
1029 secure funds for a charter school authorized in this section from
1030 a source other than the state or a school district shall
1031 indemnify the state and the school district from any and all
1032 liability; including, but not limited to, financial
1033 responsibility for the payment of the principal or interest. Any
1034 loans, bonds, or other financial agreements are not obligations
1035 of the state or the school district but are obligations of the
1036 charter school authority and are payable solely from the sources
1037 of funds pledged by such agreement. The credit or taxing power of
1038 the state or the school district shall not be pledged and no
1039 debts shall be payable out of any moneys except those of the
1040 legal entity in possession of a valid charter approved by a
1041 district school board pursuant to this section.

1042 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-
1043 A-MUNICIPALITY.--

1044 (a) In order to increase business partnerships in

PCB CI 06-03

2006

1045 education, to reduce school and classroom overcrowding throughout
1046 the state, and to offset the high costs for educational
1047 facilities construction, the Legislature intends to encourage the
1048 formation of business partnership schools or satellite learning
1049 centers and municipal-operated schools through charter school
1050 status.

1051 (b) A charter school-in-the-workplace may be established
1052 when a business partner provides the school facility to be used;
1053 enrolls students based upon a random lottery that involves all of
1054 the children of employees of that business or corporation who are
1055 seeking enrollment, as provided for in subsection (10); and
1056 enrolls students according to the racial/ethnic balance
1057 provisions described in subparagraph (7)(a)8. Any portion of a
1058 facility used for a public charter school shall be exempt from ad
1059 valorem taxes, as provided for in s. 1013.54, for the duration of
1060 its use as a public school.

1061 (c) A charter school-in-a-municipality designation may be
1062 granted to a municipality that possesses a charter; enrolls
1063 students based upon a random lottery that involves all of the
1064 children of the residents of that municipality who are seeking
1065 enrollment, as provided for in subsection (10); and enrolls
1066 students according to the racial/ethnic balance provisions
1067 described in subparagraph (7)(a)8. When a municipality has
1068 submitted charter applications for the establishment of a charter
1069 school feeder pattern, consisting of elementary, middle, and
1070 senior high schools, and each individual charter application is
1071 approved by the district school board, such schools shall then be
1072 designated as one charter school for all purposes listed pursuant
1073 to this section. Any portion of the land and facility used for a

PCB CI 06-03

2006

1074 public charter school shall be exempt from ad valorem taxes, as
1075 provided for in s. 1013.54, for the duration of its use as a
1076 public school.

1077 (d) As used in this subsection, the terms "business
1078 partner" or "municipality" may include more than one business or
1079 municipality to form a charter school-in-the-workplace or charter
1080 school-in-a-municipality.

1081 (16) EXEMPTION FROM STATUTES.--

1082 (a) A charter school shall operate in accordance with its
1083 charter and shall be exempt from all statutes in chapters 1000-
1084 1013. However, a charter school shall be in compliance with the
1085 following statutes in chapters 1000-1013:

1086 1. Those statutes specifically applying to charter schools,
1087 including this section.

1088 2. Those statutes pertaining to the student assessment
1089 program and school grading system.

1090 3. Those statutes pertaining to the provision of services
1091 to students with disabilities.

1092 4. Those statutes pertaining to civil rights, including s.
1093 1000.05, relating to discrimination.

1094 5. Those statutes pertaining to student health, safety, and
1095 welfare.

1096 (b) Additionally, a charter school shall be in compliance
1097 with the following statutes:

1098 1. Section 286.011, relating to public meetings and
1099 records, public inspection, and criminal and civil penalties.

1100 2. Chapter 119, relating to public records.

1101 (17) FUNDING.--Students enrolled in a charter school,
1102 regardless of the sponsorship, shall be funded as if they are in

PCB CI 06-03

2006

1103 a basic program or a special program, the same as students
1104 enrolled in other public schools in the school district. Funding
1105 for a charter lab school shall be as provided in s. 1002.32.

1106 (a) Each charter school shall report its student enrollment
1107 to the district school board as required in s. 1011.62, and in
1108 accordance with the definitions in s. 1011.61. The district
1109 school board shall include each charter school's enrollment in
1110 the district's report of student enrollment. All charter schools
1111 submitting student record information required by the Department
1112 of Education shall comply with the Department of Education's
1113 guidelines for electronic data formats for such data, and all
1114 districts shall accept electronic data that complies with the
1115 Department of Education's electronic format.

1116 (b) The basis for the agreement for funding students
1117 enrolled in a charter school shall be the sum of the school
1118 district's operating funds from the Florida Education Finance
1119 Program as provided in s. 1011.62 and the General Appropriations
1120 Act, including gross state and local funds, discretionary lottery
1121 funds, and funds from the school district's current operating
1122 discretionary millage levy; divided by total funded weighted
1123 full-time equivalent students in the school district; multiplied
1124 by the weighted full-time equivalent students for the charter
1125 school. Charter schools whose students or programs meet the
1126 eligibility criteria in law shall be entitled to their
1127 proportionate share of categorical program funds included in the
1128 total funds available in the Florida Education Finance Program by
1129 the Legislature, including transportation. Total funding for each
1130 charter school shall be recalculated during the year to reflect
1131 the revised calculations under the Florida Education Finance

PCB CI 06-03

2006

1132 Program by the state and the actual weighted full-time equivalent
1133 students reported by the charter school during the full-time
1134 equivalent student survey periods designated by the Commissioner
1135 of Education.

1136 (c) If the district school board is providing programs or
1137 services to students funded by federal funds, any eligible
1138 students enrolled in charter schools in the school district shall
1139 be provided federal funds for the same level of service provided
1140 students in the schools operated by the district school board.
1141 Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter
1142 schools shall receive all federal funding for which the school is
1143 otherwise eligible, including Title I funding, not later than 5
1144 months after the charter school first opens and within 5 months
1145 after any subsequent expansion of enrollment.

1146 (d) District school boards shall make ~~every effort to~~
1147 ~~ensure that charter schools receive~~ timely and efficient payment
1148 and reimbursement to charter schools, including processing
1149 paperwork required to access special state and federal funding
1150 for which they may be eligible. The district school board may
1151 distribute funds to a charter school for up to 3 months based on
1152 the projected full-time equivalent student membership of the
1153 charter school. Thereafter, the results of full-time equivalent
1154 student membership surveys shall be used in adjusting the amount
1155 of funds distributed monthly to the charter school for the
1156 remainder of the fiscal year. The payment shall be issued no
1157 later than 10 working days after the district school board
1158 receives a distribution of state or federal funds. If a warrant
1159 for payment is not issued within 10 ~~30~~ working days after receipt
1160 of funding by the district school board, the school district

PCB CI 06-03

2006

shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 5 ± percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days ~~30-day period~~ until such time as the warrant is issued. The Commissioner of Education is authorized to withhold funds from school districts that fail to make timely payments and reimbursements.

(e) The State Board of Education shall have authority to impose a fine on or withhold lottery funds from a school district for any violation of the procedural requirements for charter school application, termination, or nonrenewal appeals regardless of whether the violation affects the fairness of the appeal process or the correctness of the action taken by the school district. Prior to the imposition of a fine or the withholding of lottery funds under this paragraph, the State Board of Education shall provide the school district with notice of the amount of the proposed fine or lottery funds to be withheld and an opportunity to be heard at a subsequent meeting of the State Board of Education. The funds collected for fines under this paragraph shall be taken from the school district's administrative fee under paragraph (20)(a) and disbursed to the prevailing charter school appellant under this section or, if the charter school appellant's appeal is denied, in equal amounts to each of the charter schools within the school district. The imposition of a fine under this paragraph shall not exceed \$10,000 and is a final action subject to judicial review in the district court of appeals.

(18) FACILITIES.--

(a) A startup charter school shall utilize facilities which

PCB CI 06-03

2006

1190 comply with the Florida Building Code pursuant to chapter 553
1191 except for the State Requirements for Educational Facilities.
1192 Conversion charter schools shall utilize facilities that comply
1193 with the State Requirements for Educational Facilities provided
1194 that the school district and the charter school have entered into
1195 a mutual management plan with sufficient funding from the school
1196 district to comply with the State Requirements for Educational
1197 Facilities. Charter schools, with the exception of conversion
1198 charter schools, are not required to comply, but may choose to
1199 comply, with the State Requirements for Educational Facilities of
1200 the Florida Building Code adopted pursuant to s. 1013.37. The
1201 local governing authority shall not adopt or impose local
1202 building requirements or restrictions that are more stringent
1203 than those found in the Florida Building Code. The agency having
1204 jurisdiction for inspection of a facility and issuance of a
1205 certificate of occupancy shall be the local municipality or, if
1206 in an unincorporated area, the county governing authority.

1207 (b) A charter school shall utilize facilities that comply
1208 with the Florida Fire Prevention Code, pursuant to s. 633.025, as
1209 adopted by the authority in whose jurisdiction the facility is
1210 located as provided in paragraph (a).

1211 (c) Any facility, or portion thereof, used to house a
1212 charter school whose charter has been approved by the sponsor and
1213 the governing board, pursuant to subsection (7), shall be exempt
1214 from ad valorem taxes pursuant to s. 196.1983. Library, community
1215 service, museum, performing arts, theatre, cinema, church,
1216 community college, college, and university facilities may provide
1217 space to charter schools within their facilities under their
1218 preexisting zoning and land use designations.

PCB CI 06-03

2006

1219 (d) Charter school facilities are exempt from assessments
1220 of fees for building permits, except as provided in s. 553.80,
1221 fees and for building and occupational licenses, and ~~from~~
1222 ~~assessments of impact fees or service availability fees.~~

1223 (e) If a district school board facility or property is
1224 available because it is surplus, marked for disposal, or
1225 otherwise unused, it shall be provided for a charter school's use
1226 on the same basis as it is made available to other public schools
1227 in the district. A charter school receiving property from the
1228 school district may not sell or dispose of such property without
1229 written permission of the school district. Similarly, for an
1230 existing public school converting to charter status, no rental or
1231 leasing fee for the existing facility or for the property
1232 normally inventoried to the conversion school may be charged by
1233 the district school board to the parents and teachers organizing
1234 the charter school. The charter school ~~organizers~~ shall agree to
1235 reasonable maintenance provisions in order to maintain the
1236 facility in a manner similar to district school board standards.
1237 The Public Education Capital Outlay maintenance funds or any
1238 other maintenance funds generated by the facility operated as a
1239 conversion school shall remain with the conversion school.

1240 (f) To the extent that charter school facilities are
1241 specifically created to mitigate the educational impact created
1242 by the development of new residential dwelling units, pursuant to
1243 subparagraph (2)(c)4., some of or all of the educational impact
1244 fees required to be paid in connection with the new residential
1245 dwelling units may be designated instead for the construction of
1246 the charter school facilities that will mitigate the student
1247 station impact. Such facilities shall be built to the State

PCB CI 06-03

2006

1248 Requirements for Educational Facilities and shall be owned by a
1249 public or nonprofit entity. The local school district retains the
1250 right to monitor and inspect such facilities to ensure compliance
1251 with the State Requirements for Educational Facilities. If a
1252 facility ceases to be used for public educational purposes,
1253 either the facility shall revert to the school district subject
1254 to any debt owed on the facility, or the owner of the facility
1255 shall have the option to refund all educational impact fees
1256 utilized for the facility to the school district. The district
1257 and the owner of the facility may contractually agree to another
1258 arrangement for the facilities if the facilities cease to be used
1259 for educational purposes. The owner of property planned or
1260 approved for new residential dwelling units and the entity
1261 levying educational impact fees shall enter into an agreement
1262 that designates the educational impact fees that will be
1263 allocated for the charter school student stations and that
1264 ensures the timely construction of the charter school student
1265 stations concurrent with the expected occupancy of the
1266 residential units. The application for use of educational impact
1267 fees shall include an approved charter school application. To
1268 assist the school district in forecasting student station needs,
1269 the entity levying the impact fees shall notify the affected
1270 district of any agreements it has approved for the purpose of
1271 mitigating student station impact from the new residential
1272 dwelling units.

1273 (19) CAPITAL OUTLAY FUNDING.--Charter schools are eligible
1274 for capital outlay funds pursuant to s. 1013.62.

1275 (20) SERVICES.--

1276 (a) A sponsor shall provide certain administrative and

PCB CI 06-03

2006

1277 educational services to charter schools. These services shall
1278 include contract management services; full-time equivalent and
1279 data reporting services; exceptional student education
1280 administration and evaluation services; services related to
1281 eligibility and reporting duties required to ensure that school
1282 lunch services under the federal lunch program, consistent with
1283 the needs of the charter school, are provided by the school
1284 district at the request of the charter school; test
1285 administration services, including payment of the costs of state-
1286 required or district-required student assessments; processing of
1287 teacher certificate data services; and information services,
1288 including equal access to student information systems that are
1289 used by public schools in the district in which the charter
1290 school is located. A total administrative fee for the provision
1291 of such services shall be calculated based upon up to 5 percent
1292 of the available funds defined in paragraph (17)(b) for all
1293 students. However, a sponsor may only withhold up to a 5-percent
1294 administrative fee for enrollment for up to and including 500
1295 students. For charter schools with a population of 501 or more
1296 students, the difference between the total administrative fee
1297 calculation and the amount of the administrative fee withheld may
1298 only be used for capital outlay purposes specified in s.
1299 1013.62 (4) ~~(2)~~. Sponsors shall not charge charter schools any
1300 additional fees or surcharges for administrative and educational
1301 services in addition to the maximum 5-percent administrative fee
1302 withheld pursuant to this paragraph.

1303 (b) If goods and services are made available to the charter
1304 school through the contract with the school district, they shall
1305 be provided to the charter school at a rate no greater than the

PCB CI 06-03

2006

1306 district's actual cost unless mutually agreed upon by the charter
1307 school and the sponsor in a contract negotiated separately from
1308 the charter. When mediation has failed to resolve disputes over
1309 contracted services or contractual matters not included in the
1310 charter, an appeal may be made for a dispute resolution hearing
1311 before the Charter School Appeal Commission. To maximize the use
1312 of state funds, school districts shall allow charter schools to
1313 participate in the sponsor's bulk purchasing program if
1314 applicable.

1315 (c) Transportation of charter school students shall be
1316 provided by the charter school consistent with the requirements
1317 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
1318 body of the charter school may provide transportation through an
1319 agreement or contract with the district school board, a private
1320 provider, or parents. The charter school and the sponsor shall
1321 cooperate in making arrangements that ensure that transportation
1322 is not a barrier to equal access for all students residing within
1323 a reasonable distance of the charter school as determined in its
1324 charter.

1325 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.--The Department
1326 of Education shall provide information to the public, directly
1327 and through sponsors, both on how to form and operate a charter
1328 school and on how to enroll in charter schools once they are
1329 created. This information shall include a standard application
1330 format, charter format, and charter renewal format which shall
1331 include the information specified in subsection (7). These
1332 formats shall ~~This application format may~~ be used as guidelines
1333 by charter school sponsors ~~chartering entities~~.

1334 (22) CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE REVIEW.--

PCB CI 06-03

2006

1335 (a) The Department of Education shall staff and regularly
1336 convene a Charter School Review Panel in order to review issues,
1337 practices, and policies regarding charter schools. The
1338 composition of the review panel shall include individuals with
1339 experience in finance, administration, law, education, and school
1340 governance, and individuals familiar with charter school
1341 construction and operation. The panel shall include two
1342 appointees each from the Commissioner of Education, the President
1343 of the Senate, and the Speaker of the House of Representatives.
1344 The Governor shall appoint three members of the panel and shall
1345 designate the chair. Each member of the panel shall serve a 1-
1346 year term, unless renewed by the office making the appointment.
1347 The panel shall make recommendations to the Legislature, to the
1348 Department of Education, to charter schools, and to school
1349 districts for improving charter school operations and oversight
1350 and for ensuring best business practices at and fair business
1351 relationships with charter schools.

1352 (b) The Legislature shall review the operation of charter
1353 schools during the 2010 ~~2005~~ Regular Session of the Legislature.

1354 (23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.--Upon receipt
1355 of the annual report required by paragraph (9) (m) ~~(l)~~, the
1356 Department of Education shall provide to the State Board of
1357 Education, the Commissioner of Education, the Governor, the
1358 President of the Senate, and the Speaker of the House of
1359 Representatives an analysis and comparison of the overall
1360 performance of charter school students, to include all students
1361 whose scores are counted as part of the statewide assessment
1362 program, versus comparable public school students in the district
1363 as determined by the statewide assessment program currently

PCB CI 06-03

2006

administered in the school district, and other assessments administered pursuant to s. 1008.22(3).

(24) RULEMAKING.--The Department of Education, after consultation with school districts and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute.

Section 2. Subsection (5) of section 218.39, Florida Statutes, is amended to read:

218.39 Annual financial audit reports.--

(5) At the conclusion of the audit, the auditor shall discuss with the chair of each local governmental entity or the chair's designee, or with the elected official of each county agency or with the elected official's designee, or with the chair of the district school board or the chair's designee, or with the chair of the board of the charter school or the chair's designee, or with the chair of the charter technical career center or the chair's designee, as appropriate, all of the auditor's comments that will be included in the audit report. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his or her office. The auditor shall notify each member of the governing body of a local governmental entity, ~~or~~ district school board, or charter school for which deteriorating financial conditions exist that may cause a condition described in s. 218.503(1) to occur if actions are not taken to address such conditions.

Section 3. Section 218.50, Florida Statutes, is amended to read:

PCB CI 06-03

2006

1393 218.50 Short title.--Sections 218.50-218.504 may be cited
1394 as the "Local Governmental Entity, Charter School, and District
1395 School Board Financial Emergencies Act."

1396 Section 4. Section 218.501, Florida Statutes, is amended to
1397 read:

1398 218.501 Purposes.--The purposes of ss. 218.50-218.504 are:

1399 (1) To promote the fiscal responsibility of local
1400 governmental entities, charter schools, and district school
1401 boards.

1402 (2) To assist local governmental entities, charter schools,
1403 and district school boards in providing essential services
1404 without interruption and in meeting their financial obligations.

1405 (3) To assist local governmental entities, charter schools,
1406 and district school boards through the improvement of local
1407 financial management procedures.

1408 Section 5. Section 218.503, Florida Statutes, is amended to
1409 read:

1410 218.503 Determination of financial emergency.--

1411 (1) Local governmental entities, charter schools, and
1412 district school boards shall be subject to review and oversight
1413 by the Governor, charter school sponsor, or the Commissioner of
1414 Education, as appropriate, when any one of the following
1415 conditions occurs:

1416 (a) Failure within the same fiscal year in which due to pay
1417 short-term loans or failure to make bond debt service or other
1418 long-term debt payments when due, as a result of a lack of funds.

1419 (b) Failure to pay uncontested claims from creditors within
1420 90 days after the claim is presented, as a result of a lack of
1421 funds.

PCB CI 06-03

2006

1422 (c) Failure to transfer at the appropriate time, due to
1423 lack of funds:
1424 1. Taxes withheld on the income of employees; or
1425 2. Employer and employee contributions for:
1426 a. Federal social security; or
1427 b. Any pension, retirement, or benefit plan of an employee.
1428 (d) Failure for one pay period to pay, due to lack of
1429 funds:
1430 1. Wages and salaries owed to employees; or
1431 2. Retirement benefits owed to former employees.
1432 (e) An unreserved or total fund balance or retained
1433 earnings deficit, or unrestricted or total net assets deficit, as
1434 reported on the balance sheet or statement of net assets on the
1435 general purpose or fund financial statements, for which
1436 sufficient resources of the local governmental entity, as
1437 reported on the balance sheet or statement of net assets on the
1438 general purpose or fund financial statements, are not available
1439 to cover the deficit. Resources available to cover reported
1440 deficits include net assets that are not otherwise restricted by
1441 federal, state, or local laws, bond covenants, contractual
1442 agreements, or other legal constraints. Fixed or capital assets,
1443 the disposal of which would impair the ability of a local
1444 governmental entity to carry out its functions, are not
1445 considered resources available to cover reported deficits.
1446 (2) A local governmental entity shall notify the Governor
1447 and the Legislative Auditing Committee, a charter school shall
1448 notify the charter school sponsor and the Legislative Auditing
1449 Committee, and a district school board shall notify the
1450 Commissioner of Education and the Legislative Auditing Committee,

PCB CI 06-03

2006

1451 when one or more of the conditions specified in subsection (1)
1452 have occurred or will occur if action is not taken to assist the
1453 local governmental entity, charter school, or district school
1454 board. In addition, any state agency must, within 30 days after a
1455 determination that one or more of the conditions specified in
1456 subsection (1) have occurred or will occur if action is not taken
1457 to assist the local governmental entity, charter school, or
1458 district school board, notify the Governor, charter school
1459 sponsor, or the Commissioner of Education, as appropriate, and
1460 the Legislative Auditing Committee.

1461 (3) Upon notification that one or more of the conditions in
1462 subsection (1) exist, the Governor or his or her designee shall
1463 contact the local governmental entity or the Commissioner of
1464 Education or his or her designee shall contact the district
1465 school board to determine what actions have been taken by the
1466 local governmental entity or the district school board to resolve
1467 the condition. The Governor or the Commissioner of Education, as
1468 appropriate, shall determine whether the local governmental
1469 entity or the district school board needs state assistance to
1470 resolve the condition. If state assistance is needed, the local
1471 governmental entity or district school board is considered to be
1472 in a state of financial emergency. The Governor or the
1473 Commissioner of Education, as appropriate, has the authority to
1474 implement measures as set forth in ss. 218.50-218.504 to assist
1475 the local governmental entity or district school board in
1476 resolving the financial emergency. Such measures may include, but
1477 are not limited to:

1478 (a) Requiring approval of the local governmental entity's
1479 budget by the Governor or approval of the district school board's

PCB CI 06-03

2006

1480 budget by the Commissioner of Education.

1481 (b) Authorizing a state loan to a local governmental entity
1482 and providing for repayment of same.

1483 (c) Prohibiting a local governmental entity or district
1484 school board from issuing bonds, notes, certificates of
1485 indebtedness, or any other form of debt until such time as it is
1486 no longer subject to this section.

1487 (d) Making such inspections and reviews of records,
1488 information, reports, and assets of the local governmental entity
1489 or district school board. The appropriate local officials shall
1490 cooperate in such inspections and reviews.

1491 (e) Consulting with officials and auditors of the local
1492 governmental entity or the district school board and the
1493 appropriate state officials regarding any steps necessary to
1494 bring the books of account, accounting systems, financial
1495 procedures, and reports into compliance with state requirements.

1496 (f) Providing technical assistance to the local
1497 governmental entity or the district school board.

1498 (g)1. Establishing a financial emergency board to oversee
1499 the activities of the local governmental entity or the district
1500 school board. If a financial emergency board is established for a
1501 local governmental entity, the Governor shall appoint board
1502 members and select a chair. If a financial emergency board is
1503 established for a district school board, the State Board of
1504 Education shall appoint board members and select a chair. The
1505 financial emergency board shall adopt such rules as are necessary
1506 for conducting board business. The board may:

1507 a. Make such reviews of records, reports, and assets of the
1508 local governmental entity or the district school board as are

PCB CI 06-03

2006

1509 needed.

1510 b. Consult with officials and auditors of the local

1511 governmental entity or the district school board and the

1512 appropriate state officials regarding any steps necessary to

1513 bring the books of account, accounting systems, financial

1514 procedures, and reports of the local governmental entity or the

1515 district school board into compliance with state requirements.

1516 c. Review the operations, management, efficiency,

1517 productivity, and financing of functions and operations of the

1518 local governmental entity or the district school board.

1519 2. The recommendations and reports made by the financial

1520 emergency board must be submitted to the Governor for local

1521 governmental entities or to the Commissioner of Education and the

1522 State Board of Education for district school boards for

1523 appropriate action.

1524 (h) Requiring and approving a plan, to be prepared by

1525 officials of the local governmental entity or the district school

1526 board in consultation with the appropriate state officials,

1527 prescribing actions that will cause the local governmental entity

1528 or district school board to no longer be subject to this section.

1529 The plan must include, but need not be limited to:

1530 1. Provision for payment in full of obligations outlined in

1531 subsection (1), designated as priority items, that are currently

1532 due or will come due.

1533 2. Establishment of priority budgeting or zero-based

1534 budgeting in order to eliminate items that are not affordable.

1535 3. The prohibition of a level of operations which can be

1536 sustained only with nonrecurring revenues.

1537 (4) Upon notification that one or more of the conditions in

PCB CI 06-03

2006

subsection (1) exist, the charter school sponsor or the sponsor's designee shall contact the charter school governing body to determine what actions have been taken by the charter school governing body to resolve the condition. The charter school sponsor has the authority to require and approve a financial recovery plan, to be prepared by the charter school governing body, prescribing actions that will cause the charter school to no longer be subject to this section. The Department of Education shall establish guidelines for developing such plans.

~~(5)~~~~(4)~~ A local governmental entity or district school board may not seek application of laws under the bankruptcy provisions of the United States Constitution except with the prior approval of the Governor for local governmental entities or the Commissioner of Education for district school boards.

~~(6)~~~~(5)~~(a) The governing authority of any municipality having a resident population of 300,000 or more on or after April 1, 1999, which has been declared in a state of financial emergency pursuant to this section may impose a discretionary per-vehicle surcharge of up to 20 percent on the gross revenues of the sale, lease, or rental of space at parking facilities within the municipality which are open for use to the general public.

(b) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

1. No less than 60 percent and no more than 80 percent of the surcharge proceeds shall be used by the governing authority to reduce its ad valorem tax millage rate or to reduce or eliminate non-ad valorem assessments.

PCB CI 06-03

2006

2. A portion of the balance of the surcharge proceeds shall be used by the governing authority to increase its budget reserves; however, the governing authority shall not reduce the amount it allocates for budget reserves from other sources below the amount allocated for reserves in the fiscal year prior to the year in which the surcharge is initially imposed. When a 15-percent budget reserve is achieved, based on the average gross revenue for the most recent 3 prior fiscal years, the remaining proceeds from this subparagraph shall be used for the payment of annual debt service related to outstanding obligations backed or secured by a covenant to budget and appropriate from non-ad valorem revenues.

(c) This subsection expires June 30, 2006.

Section 6. Subsection (1) of section 218.504, Florida Statutes, is amended to read:

218.504 Cessation of state action.--The Governor or the Commissioner of Education, as appropriate, has the authority to terminate all state actions pursuant to ss. 218.50-218.504. Cessation of state action must not occur until the Governor or the Commissioner of Education, as appropriate, has determined that:

(1) The local governmental entity, charter school, or district school board:

(a) Has established and is operating an effective financial accounting and reporting system.

(b) Has resolved the conditions outlined in s. 218.503(1).

Section 7. Paragraph (e) of subsection (7) and subsection (8) of section 11.45, Florida Statutes, are amended to read:

11.45 Definitions; duties; authorities; reports; rules.--

PCB CI 06-03

2006

1596 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.--

1597 (e) The Auditor General shall notify the Governor or the
1598 Commissioner of Education, as appropriate, and the Legislative
1599 Auditing Committee of any audit report reviewed by the Auditor
1600 General pursuant to paragraph (b) which contains a statement that
1601 a local governmental entity, charter school, or district school
1602 board has met one or more of the conditions specified in s.
1603 218.503. If the Auditor General requests a clarification
1604 regarding information included in an audit report to determine
1605 whether a local governmental entity, charter school, or district
1606 school board has met one or more of the conditions specified in
1607 s. 218.503, the requested clarification must be provided within
1608 45 days after the date of the request. If the local governmental
1609 entity, charter school, or district school board does not comply
1610 with the Auditor General's request, the Auditor General shall
1611 notify the Legislative Auditing Committee. If, after obtaining
1612 the requested clarification, the Auditor General determines that
1613 the local governmental entity, charter school, or district school
1614 board has met one or more of the conditions specified in s.
1615 218.503, he or she shall notify the Governor or the Commissioner
1616 of Education, as appropriate, and the Legislative Auditing
1617 Committee.

1618 (8) RULES OF THE AUDITOR GENERAL.--The Auditor General, in
1619 consultation with the Board of Accountancy, shall adopt rules for
1620 the form and conduct of all financial audits performed by
1621 independent certified public accountants pursuant to ss. 215.981,
1622 218.39, 1001.453, 1004.28, and 1004.70. The rules for audits of
1623 local governmental entities, charter schools, and district school
1624 boards must include, but are not limited to, requirements for the

PCB CI 06-03

2006

reporting of information necessary to carry out the purposes of the Local Governmental Entity, Charter School, and District School Board Financial Emergencies Act as stated in s. 218.501.

Section 8. Subsection (1) and paragraph (a) of subsection (2) of section 166.271, Florida Statutes, are amended to read:

166.271 Surcharge on municipal facility parking fees.--

(1) The governing authority of any municipality with a resident population of 200,000 or more, more than 20 percent of the real property of which is exempt from ad valorem taxes, and which is located in a county with a population of more than 500,000 may impose and collect, subject to referendum approval by voters in the municipality, a discretionary per vehicle surcharge of up to 15 percent of the amount charged for the sale, lease, or rental of space at parking facilities within the municipality which are open for use to the general public and which are not airports, seaports, county administration buildings, or other projects as defined under ss. 125.011 and 125.015, provided that this surcharge shall not take effect while any surcharge imposed pursuant to s. 218.503 (6) ~~(5)~~ (a), is in effect.

(2) A municipal governing authority that imposes the surcharge authorized by this subsection may use the proceeds of such surcharge for the following purposes only:

(a) No less than 60 percent and no more than 80 percent of surcharge proceeds shall be used to reduce the municipality's ad valorem tax millage or to reduce or eliminate non-ad valorem assessments, unless the municipality has previously used the proceeds from the surcharge levied under s. 218.503 (6) ~~(5)~~ (b) to reduce the municipality's ad valorem tax millage or to reduce non-ad valorem assessments.

PCB CI 06-03

2006

Section 9. Paragraph (a) of subsection (9) and paragraph (b) of subsection (11) of section 1002.32, Florida Statutes, are amended to read:

1002.32 Developmental research (laboratory) schools.--

(9) FUNDING.--Funding for a lab school, including a charter lab school, shall be provided as follows:

(a) Each lab school shall be allocated its proportional share of operating funds from the Florida Education Finance Program as provided in s. 1011.62 based on the county in which the lab school is located and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for lab schools shall be allocated from state funds. The required local effort funds calculated pursuant to s. 1011.62 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 1011.62. Each eligible lab school in operation as of September 1, 2002, shall also receive a proportional share of the sparsity supplement as calculated pursuant to s. 1011.62. In addition, each lab school shall receive its proportional share of all categorical funds, with the exception of s. 1011.68, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. However, if a lab school, in the fulfillment of its requirements to have a representative student population pursuant to subsection (4), elects to provide student transportation, the lab school shall be eligible for funding pursuant to s. 1011.68. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

PCB CI 06-03

2006

(11) EXCEPTIONS TO LAW.--To encourage innovative practices and facilitate the mission of the lab schools, in addition to the exceptions to law specified in s. 1001.23(2), the following exceptions shall be permitted for lab schools:

(b) With the exception of s. 1001.42(16), s. 1001.42 shall be held in abeyance, except that a lab school, in the fulfillment of its requirements to have a representative student population pursuant to subsection (4), may elect to provide transportation in accordance with s. 1001.42(8). Reference to district school boards in s. 1001.42(16) shall mean the president of the university or the president's designee.

Section 10. Subsection (3) of section 1003.05, Florida Statutes, is amended to read:

1003.05 Assistance to transitioning students from military families.--

(3) Dependent children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools shall be given first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned and the school at which the program is being offered has reached its maximum enrollment. If such a program is offered through a public school other than the school to which the student would generally be assigned, the parent or guardian of the student must assume responsibility for transporting the student to that school. For purposes of this subsection, special academic programs include ~~charter schools~~, magnet schools, advanced studies programs, advanced placement, dual enrollment, and International

PCB CI 06-03

2006

1712 Baccalaureate.

1713 Section 11. Effective July 1, 2007, subsection (2) of
1714 section 1012.74, Florida Statutes, is amended to read:

1715 1012.74 Florida educators professional liability insurance
1716 protection.--

1717 (2)(a) Educator professional liability coverage for all
1718 instructional personnel, including charter school instructional
1719 personnel, as defined by s. 1012.01(2), who are full-time
1720 personnel, as defined by the district school board policy, shall
1721 be provided by specific appropriations under the General
1722 Appropriations Act.

1723 (b) Educator professional liability coverage shall be
1724 extended at cost to all instructional personnel, including
1725 charter school instructional personnel, as defined by s.
1726 1012.01(2), who are part-time personnel, as defined by the
1727 district school board policy, and choose to participate in the
1728 state-provided program.

1729 (c) Educator professional liability coverage shall be
1730 extended at cost to all administrative personnel, including
1731 administrative personnel in charter schools, as defined by s.
1732 1012.01(3), who choose to participate in the state-provided
1733 program.

1734 Section 12. Section 1013.62, Florida Statutes, is amended
1735 to read:

1736 1013.62 Charter schools capital outlay funding.--

1737 (1) In each year in which funds are appropriated for
1738 charter school capital outlay purposes, the Commissioner of
1739 Education shall allocate the funds among eligible charter
1740 schools. To be eligible for a funding allocation, a charter

PCB CI 06-03

2006

school must be one of the following:

(a) The same school that received capital outlay funding in 2002-2003.

(b) A charter school that is an expanded feeder pattern of a charter school that received capital outlay funding in 2002-2003.

(2) If an appropriation for charter school capital outlay funds is less than the 2002-2003 appropriation, the funds shall be prorated among schools eligible pursuant to subsection (1).

(3) If an appropriation for charter school capital outlay funds is greater than the 2002-2003 appropriation, the funds shall be allocated to schools eligible pursuant to subsection (1) and to charter schools that:

(a)1. Have been in operation for 3 or more years;

2. Are ~~Be~~ an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds; or

3. Have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools.

(b) Have financial stability for future operation as a charter school.

(c) Have received a school grade of "A" or "B," pursuant to s. 1008.34, during 3 of the past 4 school years ~~satisfactory student achievement based on state accountability standards applicable to the charter school.~~

(d) Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.

(e) Serve students in facilities that are not provided by the charter school's sponsor.

PCB CI 06-03

2006

1770
 1771 First priority for allocating the amount in excess of the 2002-
 1772 2003 appropriation shall be to prorate the excess funds among
 1773 charter schools with long-term debt or long-term lease to the
 1774 extent that the initial allocation is insufficient to provide
 1775 one-fifteenth of the cost-per-student station specified in s.
 1776 1013.64(6)(b) and second priority shall be to other eligible
 1777 charter schools. Prior to the release of capital outlay funds to
 1778 a school district on behalf of the charter school, the Department
 1779 of Education shall ensure that the district school board and the
 1780 charter school governing board enter into a written agreement
 1781 that includes provisions for the reversion of any unencumbered
 1782 funds and all equipment and property purchased with public
 1783 education funds to the ownership of the district school board, as
 1784 provided for in subsection (5)~~(3)~~, in the event that the school
 1785 terminates operations. Any funds recovered by the state shall be
 1786 deposited in the General Revenue Fund. A charter school is not
 1787 eligible for a funding allocation if it was created by the
 1788 conversion of a public school and operates in facilities provided
 1789 by the charter school's sponsor for a nominal fee or at no charge
 1790 or if it is directly or indirectly operated by the school
 1791 district. Unless otherwise provided in the General Appropriations
 1792 Act, the funding allocation for each eligible charter school
 1793 shall be determined by multiplying the school's projected student
 1794 enrollment by one-fifteenth of the cost-per-student station
 1795 specified in s. 1013.64(6)(b) for an elementary, middle, or high
 1796 school, as appropriate. If the funds appropriated are not
 1797 sufficient, the commissioner shall prorate the available funds
 1798 among eligible charter schools. However, no charter school or

PCB CI 06-03

2006

1799 charter lab school shall receive state charter school capital
1800 outlay funds in excess of the one-fifteenth cost per student
1801 station formula if the charter school's combination of state
1802 charter school capital outlay funds, capital outlay funds
1803 calculated through the reduction in the administrative fee
1804 provided in s. 1002.33(20), and capital outlay funds allowed in
1805 s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per
1806 student station formula. Funds shall be distributed on the basis
1807 of the capital outlay full-time equivalent membership by grade
1808 level, which shall be calculated by averaging the results of the
1809 second and third enrollment surveys. The Department of Education
1810 shall distribute capital outlay funds monthly, beginning in the
1811 first quarter of the fiscal year, based on one-twelfth of the
1812 amount the department reasonably expects the charter school to
1813 receive during that fiscal year. The commissioner shall adjust
1814 subsequent distributions as necessary to reflect each charter
1815 school's actual student enrollment as reflected in the second and
1816 third enrollment surveys. The commissioner shall establish the
1817 intervals and procedures for determining the projected and actual
1818 student enrollment of eligible charter schools.

1819 ~~(4)~~(2) A charter school's governing body may use charter
1820 school capital outlay funds for the following purposes:

- 1821 (a) Purchase of real property.
- 1822 (b) Construction of school facilities.
- 1823 (c) Purchase, lease-purchase, or lease of permanent or
1824 relocatable school facilities.
- 1825 (d) Purchase of vehicles to transport students to and from
1826 the charter school.
- 1827 (e) Renovation, repair, furnishing, and maintenance of

PCB CI 06-03

2006

1828 school facilities that the charter school owns or is purchasing
1829 through a lease-purchase or long-term lease of 5 years or longer
1830 and purchasing equipment for such facilities.

1831
1832 Conversion charter schools may use capital outlay funds received
1833 through the reduction in the administrative fee provided in s.
1834 1002.33(20) for renovation, repair, and maintenance of school
1835 facilities that are owned by the sponsor.

1836 ~~(5)(3)~~ When a charter school is nonrenewed or terminated,
1837 any unencumbered funds and all equipment and property purchased
1838 with district public funds shall revert to the ownership of the
1839 district school board, as provided for in s. 1002.33(8)(e) and
1840 (f). In the case of a charter lab school, any unencumbered funds
1841 and all equipment and property purchased with university public
1842 funds shall revert to the ownership of the state university that
1843 issued the charter. The reversion of such equipment, property,
1844 and furnishings shall focus on recoverable assets, but not on
1845 intangible or irrecoverable costs such as rental or leasing fees,
1846 normal maintenance, and limited renovations. The reversion of all
1847 property secured with public funds is subject to the complete
1848 satisfaction of all lawful liens or encumbrances. If there are
1849 additional local issues such as the shared use of facilities or
1850 partial ownership of facilities or property, these issues shall
1851 be agreed to in the charter contract prior to the expenditure of
1852 funds.

1853 ~~(6)(4)~~ The Commissioner of Education shall specify
1854 procedures for submitting and approving requests for funding
1855 under this section and procedures for documenting expenditures.

1856 ~~(7)(5)~~ The annual legislative budget request of the

PCB CI 06-03

2006

1857 Department of Education shall include a request for capital
1858 outlay funding for charter schools. The request shall be based on
1859 the projected number of students to be served in charter schools
1860 who meet the eligibility requirements of this section. A
1861 dedicated funding source, if identified in writing by the
1862 Commissioner of Education and submitted along with the annual
1863 charter school legislative budget request, may be considered an
1864 additional source of funding.

1865 (8)~~(6)~~ Unless authorized otherwise by the Legislature,
1866 allocation and proration of charter school capital outlay funds
1867 shall be made to eligible charter schools by the Commissioner of
1868 Education in an amount and in a manner authorized by subsections
1869 (2) and (3) ~~subsection (1)~~.

1870 ~~(7) Notwithstanding the provisions of this section,~~
1871 ~~beginning in the 2003-2004 fiscal year:~~

1872 ~~(a) If the appropriation for charter school capital outlay~~
1873 ~~funds is no greater than the 2002-2003 appropriation, the funds~~
1874 ~~shall be allocated according to the formula outlined in~~
1875 ~~subsection (1) to:~~

1876 ~~1. The same schools that received funding in 2002-2003.~~

1877 ~~2. Schools that are an expanded feeder pattern of schools~~
1878 ~~that received funding in 2002-2003.~~

1879 ~~3. Schools that have an approved charter and are serving~~
1880 ~~students at the start of the 2003-2004 school year and either~~
1881 ~~incurred long-term financial obligations prior to January 31,~~
1882 ~~2003, or began construction on educational facilities prior to~~
1883 ~~December 31, 2002.~~

1884 ~~(b) If the appropriation for charter school capital outlay~~
1885 ~~funds is less than the 2002-2003 appropriation, the funds shall~~

PCB CI 06-03

2006

1886 ~~be prorated among the schools eligible in paragraph (a).~~
1887 ~~(c) If the appropriation for charter school capital outlay~~
1888 ~~funds is greater than the 2002-2003 appropriation, the amount of~~
1889 ~~funds provided in the 2002-2003 appropriation shall be allocated~~
1890 ~~according to paragraph (a). First priority for allocating the~~
1891 ~~amount in excess of the 2002-2003 appropriation shall be to~~
1892 ~~prorate the excess funds among the charter schools with long-term~~
1893 ~~debt or long-term lease to the extent that the initial allocation~~
1894 ~~is insufficient to provide one-fifteenth of the cost per student~~
1895 ~~station specified in s. 1013.64(6)(b), and second priority shall~~
1896 ~~be to other eligible charter schools.~~
1897 Section 13. Except as otherwise expressly provided in this
1898 act, this act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01. (for drafter's use only)

Bill No. **pcb06-03**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Choice & Innovation Committee
2 Representative(s) Stargel offered the following:
3

4 **Amendment (with directory and title amendments)**

5 Remove line(s) 1290 and insert:
6 school is located. Student performance data for each student in
7 a charter school, including but not limited to FCAT scores,
8 standardized test scores, individual report cards and student
9 performance measures, shall be provided by the sponsor to a
10 charter school in the same manner provided to other public
11 schools in the district. A total administrative fee for the

000000